

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

JOHN RESTIVO, DENNIS HALSTEAD, MELISSA
LULLO, JASON HALSTEAD, TAYLOR HALSTEAD,
and HEATHER HALSTEAD,

Plaintiffs,

-against-

NASSAU COUNTY, CAROLANN HESSEMAN, AS
EXECUTRIX FOR THE ESTATE OF JOSEPH VOLPE,
in his individual capacity, ROBERT DEMPSEY,
in his individual capacity, FRANK SIRIANNI,
in his individual capacity, MILTON GRUBER,
in his individual capacity, HARRY WALTMAN
in his individual capacity ALBERT MARTINO,
in his individual capacity, CHARLIE FRAAS,
in his individual capacity, THOMAS ALLAN
in his individual capacity, RICHARD BRUSA,
in his individual capacity, VINCENT DONNELLY,
in his individual capacity, MICHAEL
CONNAUGHTON, in his individual capacity,
WAYNE BIRDSALL, in his individual capacity,
WILLIAM DIEHL, in his individual capacity,
JACK SHARKEY, in his individual capacity,
DANIEL PERRINO, in his individual capacity,
ANTHONY KOZIER, in his individual capacity,
Detective Sergeant CAMPBELL, (Shield #48),
in his individual capacity, SEAN SPILLANE,
in his individual capacity, RICHARD ROE
SUPERVISORS #1-10, in their individual
capacities,

Defendants.

06-CV-6720(JS)(WDW)

JOINT PRE-TRIAL ORDER

2. Trial Counsel:

Plaintiffs John Restivo and Dennis Halstead are represented by:

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3. Subject Matter Jurisdiction:

This Court has federal question jurisdiction, pursuant to 28 U.S.C. § 1331, over claims arising under 42 U.S.C. § 1983. Title 28 U.S.C. § 1367(a) provides supplemental jurisdiction over plaintiffs' state law claims.

4. Claims and Defenses remaining to be tried:

The following below-listed claims currently remain to be tried against the following below-listed defendants. In an effort to streamline this re-trial, Plaintiffs are working to narrow

their claims and evidence. Consequently, based on the Court's rulings on the Motions *in Limine*, Plaintiffs may dismiss additional claims and defendants before trial; Plaintiffs have already significantly winnowed their witness and evidence lists as will be apparent below.

I. Claims

Plaintiffs John Restivo and Dennis Halstead's Claims (Amended Complaint, Case No. 2:06-CV-6720 (JS)(WDW), D.E. 33, as amended by substitution of Carolann Hesseman as Executrix for the Estate of Joseph Volpe, *see* Case No. 2:06-CV-6695 (JS)(WDW), D.E. 121):

- 42 U.S.C. § 1983 malicious prosecution (Count 1);
- 42 U.S.C. § 1983 due process, including theories of a) fabrication and b) suppression from prosecutors of material exculpatory and impeachment information (Count 2);
- 42 U.S.C. § 1983 conspiracy (Count 4);
- 42 U.S.C. § 1983 supervisory liability (Count 5);
- 42 U.S.C. § 1983 municipal liability (Count 6) (trial on this claim, if any, will be bifurcated); and
- State law malicious prosecution (Count 8)

Against the Following Defendants:

- Nassau County (defendant under Count 6);
- Carolann Hesseman, as Executrix for the Estate of Joseph Volpe, in his individual capacity;
- Robert Dempsey, in his individual capacity;
- Frank Sirianni, in his individual capacity;
- Charles Fraas, in his individual capacity;
- Thomas Allen, in his individual capacity;
- Michael Connaughton, in his individual capacity;
- Wayne Birdsall, in his individual capacity; and
- Sean Spillane, in his individual capacity.

The following claims alleged by plaintiffs Restivo and Halstead have been dismissed and will not be tried:

- 42 U.S.C. § 1983 false arrest (Count 1);
- 42 U.S.C. § 1983 failure to intercede (Count 3);
- 42 U.S.C. § 1983 familial association (Count 7);
- State law false arrest (Count 8);
- State law assault & battery (Count 9);
- State law intentional or reckless infliction of emotional distress (Count 10);
- State law reckless infliction of emotional distress (Count 11); and
- State law respondeat superior (Count 12).

Defendants position is that Plaintiffs should state whether there are any other theories under Count 2 besides a) fabrication & b) suppression of exculpatory and impeachment material.

Defendants also note that Plaintiffs earlier indicated that “we should discuss Monell before you file...there may not be a Monell case” Transcript of 12/20/13, 20.

II. Defenses

Defendants maintain that the Plaintiffs’ allegations are not true and that Defendants acted in good faith at all times.

5. Jury Statement:

Plaintiffs have demanded a jury trial and tentatively anticipate (pending *in limine* rulings) the Plaintiffs’ case will take 8 to 10 trial days.

Defendants have demanded a jury trial and anticipate the defense case will take 4 trial days subject to the Court’s rulings on *in limine* motions.

6. No Consent to trial by Magistrate Judge:

The parties do not consent to trial by a Magistrate Judge.

7. Stipulations or agreed statements of fact or law agreed to by all parties:

** Stipulations that have been designated with an asterisk denote those that may be excluded pending the Court’s ruling on Plaintiffs’ Motion in Limine to Preclude the Introduction of Evidence of Statements made by John Restivo.*

Prior stipulations precluded by this Court’s ruling that evidence relating to John Kogut’s statements have been excluded. As most of these stipulations were agreed to prior to or during the 2012 trial, Plaintiffs reserve the right to make a narrowed presentation of those stipulations in conformity with the Court’s rulings and the severance of Plaintiffs’ case from John Kogut’s.

I. Stipulations agreed to before or during the prior trial in 2012:

Defendants object to the use of stipulations from the prior trial, see, D.E. 149, Letter Motion in Limine regarding Plaintiffs’ Use of Contention Interrogatories. Plaintiffs respond that such an objection has no legal basis. See D.E. 150 (Plaintiffs’ Response to Defendants’ Letter Motion to Preclude Use of Stipulations and Responses to Contention Interrogatories).

i. Prior Trial Stipulation No. 1:

On May 8, 1985, a grand jury indicted John Kogut for three felony counts committed against Theresa Fusco on or about November 10, 1985: 1) intentional second-degree murder

by ligature strangulation, 2) second-degree murder in the course of rape, and 3) first-degree rape.

On June 20, 1985, a grand jury indicted John Restivo and Dennis Halstead for three felony counts committed against Theresa Fusco on or about November 10, 1985: 1) intentional second-degree murder by strangulation; 2) second-degree murder in the course of a rape, and 3) first-degree rape. John Restivo and Dennis Halstead were both arrested and jailed on June 20, 1985.

John Kogut was tried alone and convicted of all three counts on June 27, 1986. He was sentenced to serve 37 ½ years to life in prison. After a separate trial, John Restivo and Dennis Halstead were convicted of all three counts on December 3, 1986. In February, 1987, John Restivo and Dennis Halstead were each sentenced to serve 33 1/3 years to life in prison. John Kogut, John Restivo and Dennis Halstead each appealed their convictions. Those appeals were denied.

In 1993, by agreement with the Nassau County District Attorney's Office ("NCDA"), biological evidence collected from Miss Fusco at autopsy, including one of the vaginal swabs, was delivered from the NCME to Lifecodes Laboratory for forensic testing. With their consent, blood was drawn from John Kogut, John Restivo and Dennis Halstead in October of 1993.

Those sealed samples were delivered to Lifecodes.

Lifecodes performed "DQ Alpha" testing, an early form of DNA testing, on the biological evidence received from the NCME. On November 22, 1993, Lifecodes reported that its testing excluded Dennis Halstead as the source of the male DNA present in the biological evidence received from the NCME. Lifecodes then returned the evidence back to the NCME via UPS, retaining the remnants of its DNA testing.

On June 23, 1994, pursuant to an agreement between the NCDA and counsel for John Kogut, John Restivo and Dennis Halstead, Lifecodes sent the remnants of its DNA testing, as well as reference samples of blood from John Kogut, John Restivo and Dennis Halstead, to CBR Laboratories via Federal Express.

Again by agreement with the NCDA, on September 19, 1994, the NCME sent via Federal Express biological evidence collected from Miss Fusco, including vaginal swabs, an oral swab, and a slide containing a vaginal smear, to CBR Laboratories, Inc., for additional DNA testing. CBR Laboratories reported on November 29, 1994 that DNA testing using the DQ Alpha method excluded John Kogut, John Restivo and Dennis Halstead as the source of male DNA found in the samples collected from Miss Fusco.

At the request of the NCDA, in December 1994, biological samples collected from Miss Fusco's vagina as well as blood samples from John Kogut, John Restivo and Dennis Halstead were sent from the NCME and from CBR Laboratories to Cellmark Diagnostics for DNA testing. On January 5, 1995, Cellmark reported that, consistent with the findings of

CBR Laboratories, its testing excluded excluded John Kogut, John Restivo and Dennis Halstead as the source of male DNA found in the vaginal samples it tested.

Based on these DNA results, plaintiffs each moved to vacate their convictions. The NCDA opposed the motions and they were denied on August 14, 1995. Cellmark returned the remaining evidence to the NCME, which received it via Federal Express from Cellmark in a sealed box on March 28, 1995. The NCME maintained the sealed box of evidence containing biological samples from Theresa Fusco until March of 2001, when it was opened and the sealed packages inside the box were examined to identify whether samples remained for additional DNA testing using the more advanced Short Tandem Repeat (“STR”) method.

STR DNA testing permits a determination, to a reasonable degree of scientific certainty, whether a given person is, or is not, a contributor of the DNA profile yielded from a given forensic sample.

On March 8, 2001, the NCME sent samples of biological material from the Fusco vaginal smear to the Laboratory Corporation of America (“LabCorp”) by Federal Express overnight delivery. On March 20, 2001, LabCorp reported that it had identified a male DNA profile in one of the Fusco vaginal smear samples it had received from the NCME. The NCME then sent LabCorp an oral swab collected from Theresa Fusco at autopsy. On June 7, 2001, LabCorp reported that it had identified Theresa Fusco’s DNA profile from the oral swab.

The Office of the Chief Medical Examiner of the City of New York, Department of Forensic Biology (“NY OCME”), after identifying the DNA profiles of all three men, reported on December 4, 2001 that John Restivo, Dennis Halstead and John Kogut were all excluded as the source of male DNA identified by LabCorp.

In January 2003, Nassau County authorities located an additional item of evidence, a sealed envelope containing a glass tube with the remnants of a swab, which had been vouchered by the NCPD Property Bureau as a swab from Theresa Fusco. This newly discovered evidence was unsealed, examined and photographed under controlled conditions at a lab within the Nassau County Medical Examiner’s Office.

This newly discovered evidence, along with other remaining samples collected from Theresa Fusco and reference samples of blood from John Kogut, John Restivo and Dennis Halstead, was sent to Orchid Cellmark Laboratories, formerly Cellmark Diagnostics (“Cellmark”) in March of 2003. On March 21, 2003, Cellmark reported finding a mixture of female DNA matching Theresa Fusco and male DNA on the newly discovered vaginal swab. Cellmark reported that John Restivo, Dennis Halstead and John Kogut were all excluded as the source of the male DNA from the newly discovered swab.

All three laboratories that conducted STR DNA testing – LabCorp, New York’s Office of the Chief Medical Examiner, and Cellmark – identified the same single, intact DNA profile of an unknown male as the source of the semen found in Miss Fusco’s vagina. All three laboratories reported that Dennis Halstead, John Restivo and John Kogut were each

excluded as the source of the male DNA collected from Miss Fusco. At all three laboratories, STR DNA testing was performed under scientifically acceptable protocols.

These test results excluded all three plaintiffs as the source of semen found in the Miss Fusco's vaginal cavity. These test results are accurate and reliable.

The Nassau County Medical Examiner's Department of Forensic Genetics uploaded the unidentified male profile in the Combined DNA Index System Database, known as "CODIS."

To date, the profile does not match any profile contained in CODIS.

STR analysis was not available for use as a forensic technique in 1986, when Halstead, Restivo and Kogut were tried.

Based on these STR DNA results, counsel for Dennis Halstead, John Restivo and John Kogut, as well as the Nassau County District Attorney's Office entered into a stipulation in May 2003 and moved the Court to vacate the convictions of all three men. The Nassau County Court granted the parties' motion and, on June 11, 2003, all three men's convictions were vacated.

Defendants object to this stipulations based on FRE 402; See, D.E. 135, Motion in Limine to Preclude Evidence re: Undisputed Favorable Termination Element and to Preclude DNA Testimony.

Plaintiffs respond that this stipulation is relevant. See D.E. 144 (Plaintiffs' Response to Defendants' Motion to Exclude Evidence of Innocence).

ii. Prior Court Exhibit No. 2*:

The Nassau County Police Department has no record documenting any investigation of complaints made by attorney Theodore Robinson regarding the interrogation of John Restivo and other witnesses.

Defendants object to this stipulation based on FRE 402; See, D.E. 132, Plaintiffs' Motion to Exclude John Restivo's Statement and Otherwise Conform Defendants' Rebuttal to Narrower Scope of Plaintiffs' Claims.

Plaintiffs agree that if Plaintiffs' Motion to Exclude John Restivo's Statement, D.E. 132, is granted, this stipulation will no longer be used.

iii. Prior Court Exhibit No. 3:

At the beginning of the trial, on or about September 17, 2012, at the request of the Plaintiffs, Detective Hillman searched for the rope depicted in Plaintiffs' Exhibit 169-J and could find neither the rope nor any document reflecting what had happened to it.

iv. Prior Court Exhibit No. 4:

The parties stipulate and agree that, if called to testify, Peter Weinstein would testify as follows:

1. He was the Chief of the Appeals Bureau at the Nassau County District Attorney's Office ("NCDA") from 1991 until 2009.
2. In 1994, when John Restivo, Dennis Halstead, and John Kogut made motions for relief from their convictions based on the DNA testing, Mr. Weinstein became involved, along with others at the Nassau County District Attorney's Office, in review of the cases and in discussions about what response should be made to the motions for relief.
3. The Appeals Bureau that Mr. Weinstein oversaw was responsible for responding to request for information pursuant to the Freedom of Information Law. While John Restivo, Dennis Halstead and John Kogut were still in prison, their lawyers made many such requests for information.
4. To the best of Mr. Weinstein's knowledge, this information about the French car/striped jeans lead was never disclosed by the police to the prosecutors.
5. In 2003, Denise Pavlides, who was working for Mr. Weinstein, went to either the police department or the medical examiner's office with lawyers for Mr. Restivo and Mr. Halstead to look for evidence in response to Freedom of Information Law requests. During this search they located an additional swab from Theresa Fusco; DNA testing was performed on this new evidence, which led to the NCDA's Office consenting to vacate the convictions of all three men.

Defendants object to this stipulation given the fact that Plaintiffs have stated their intention to call Peter Weinstein as a witness.

v. ~~Prior Court Exhibit No. 5:~~

[Struck given the Court's prior rulings excluding John Kogut's confession from this trial]

vi. Prior Court Exhibit No. 6:

Defendants contend that Theresa Fusco's hairs were left in the blue Ford Econoline van depicted in Plaintiffs' Exhibit 222 on November 10, 1984.

Defendants object to this stipulation based on FRE 402; see, D.E. 149, Letter Motion in Limine regarding Plaintiffs' Use of Contention Interrogatories. This stipulation is based on information from the Kogut confession and Plaintiffs' assert that the Kogut confession has been ruled inadmissible.

Plaintiffs respond that this stipulation is relevant, and such an objection has no legal basis. See D.E. 150 (Plaintiffs' Response to Defendants' Letter Motion to Preclude Use of Stipulations and Responses to Contention Interrogatories).

vii. Stipulation from Prior Trial, Tr. 09/20/12 at 131:

None of the individuals identified in PX 684 shared the DNA profile of the person whose semen was found in Theresa Fusco.

Defendants object to this stipulations based on FRE 402; See, D.E. 135, Motion in Limine to Preclude Evidence re: Undisputed Favorable Termination Element and to Preclude DNA Testimony.

Plaintiffs respond that this stipulation is relevant. See D.E. 144 (Plaintiffs' Response to Defendants' Motion to Exclude Evidence of Innocence).

viii. Stipulation From Prior Trial Tr. 11/19/12 at 5711-12:

Eight depositions of Joseph Volpe were conducted by the plaintiffs. The depositions lasted approximately an hour and a half each.

They were held on January 26, 2009; March 5, 2009; March 18, 2009; April 6, 2009; May 4, 2009; November 24, 2009, 12/2/09, and November 19, 2010.

The last deposition was started by defense counsel and would have continued but for the death of Joseph Volpe on January 3, 2011.

ix. Stipulation From Prior Trial Tr. 11/19/12 at 5712-13:

Plaintiffs requested the audiotape of Plaintiff Dennis Halstead in 2007. Defendants invited Plaintiffs' counsel to inspect those tapes in 2010. Plaintiffs declined to inspect the tapes because they were advised that the tapes could not be played because of their age and condition.

Defendants and Plaintiffs agree that the use of this stipulation at the re-trial is conditioned upon the admissibility of Defendants' Exhibits DH1 (transcript of audio conversation between Halstead and his sister) and DH2 (audio conversation between Halstead and his sister).

II. Stipulations agreed to since the prior trial in 2012:

i. Stipulation A: Joseph Famighetti represented Dennis Halstead at his criminal trial in 1986. Mr. Famighetti passed away in 2001.

ii. Stipulation B:

The following documents were part of the Nassau County Police Department homicide file regarding Theresa Fusco:

- a. Plaintiffs' Exhibit # 161: Notes from an interview with John French on December 6, 1984;
- b. Plaintiffs' Exhibit # 162: Notes recording what was lost from John French's car, completed by Nassau County homicide Detective Mitchell and dated December 11, 1984;
- c. Plaintiffs' Exhibit # 163: A statement taken from and signed by John French on December 7, 1984 and witnessed by Nassau County Homicide Detective Frank Sirianni;
- d. Plaintiffs' Exhibit # 164: Notes entitled "People who were in John French car," written by Nassau County Homicide Detective Sirianni;
- e. Plaintiffs' Exhibit #165: LFU Vehicle Processing Worksheet & related documents;
- f. Plaintiffs' Exhibit # 166: The Nassau County Police Department Case Report recording the reported theft on November 10, 1984, and recovery on November 18, 1984, of John French's vehicle; and Plaintiffs' Exhibit # 171: Detective Volpe's handwritten notes detailing the information the Nassau County Police Department had received about the "recovered stolen auto."

Defendants stipulate that these exhibits (files) were part of the NCPD homicide file, not that these exhibits (files) are admissible in evidence

iii. Stipulation C:

The following documents were part of the Nassau County Police Department homicide file regarding Theresa Fusco:

- a. Plaintiffs' Exhibit # 141: Police Officer Diehl's notes of the interview that he and Police Officer Connaughton conducted of Brian O'Hanlon on September 12, 1985;
- b. Plaintiffs' Exhibit #142: Detective Lane's notes of the interview that he and Detective Waltman conducted of Brian O'Hanlon beginning at 8:00 pm on September 12, 1985; and
- c. Plaintiffs' Exhibit #143: the Statement of Brian O'Hanlon, taken by Detectives Lane and Waltman on September 12, 1985.

Defendants stipulate that these exhibits (files) were part of the NCPD homicide file, not that these exhibits (files) are admissible in evidence.

III. Stipulations proposed by Plaintiffs since the prior trial in 2012, but rejected by defendants:

Defendants object to the inclusion of Plaintiffs' proposed stipulations. As per the Individual Motion Practices of Judge Seybert, the pre-trial order shall include "any stipulations

or agreed statements of fact or law which have been agreed to by all parties.” Proposed stipulations do not fall into this category.

i. Stipulation D:

However, as of 2007, those documents—Plaintiffs’ Exhibit Nos. 161, 162, 163, 164, 166, and 171—were not in the corresponding Nassau County District Attorney’s files regarding the prosecution of John Restivo, Dennis Halstead, or John Kogut.

[Proposed stipulation based on admission by Defendants’ Counsel in DE 65-1 at ¶ 48 (Decl. of Liora Ben-Sorek)].

ii. Stipulation E:

The Assistant District Attorney who was assigned to this case for the Nassau County District Attorney’s Office in 2003, Robert Biancavilla, has no independent recollection of ever seeing those documents when he thoroughly reviewed the complete Nassau County District Attorney’s file for this case in 2005.

[Proposed stipulation based on Defendants’ Admissions in RFA Nos. 37, 43, 49, 55, 61, 67, 73, 79, 93, 99, 105, and 111].

iii. Stipulation F:

Prior to leaving the Nassau County District Attorney’s Office in 1985, Edward McCarty was the Nassau County Assistant District Attorney initially assigned to the Theresa Fusco homicide and rape. If Edward McCarty were called, he would testify that, as the Assistant District Attorney assigned to the Fusco investigation until May 1985, he was not aware of and never saw any of the documents or photographs associated with the French car lead.

[Proposed stipulation based on the testimony of Edward McCarty. *See* McCarty Deposition at 71-75].

iv. Stipulation G:

Ted Robinson represented John Restivo at his criminal trial in 1986. If Mr. Robinson were called, he would testify that, at the time of the criminal trial in 1986, he never saw any of the documents associated with the French car lead—Plaintiff’s Exhibit Nos. 161, 162, 163, 164, 166, and 171—and was not aware of any of the information contained therein.

[Proposed stipulation based on the trial testimony of Ted Robinson. *See* 2012 tr. (10/1/12) at 1028-34].

v. Stipulation H:

In 1984, Dennis Halstead was twenty-nine years old. During that year, he held parties at his apartment on Atlantic Avenue. A number of high-school age girls attended those parties. Dennis Halstead provided beer and marijuana to his guests, including the high school aged girls who attended. Nassau County homicide detectives, including Detective Joseph Volpe, became aware of this information early in their investigation of Theresa Fusco's rape and murder. No evidence demonstrated, however, that Ms. Fusco knew Dennis Halstead, visited his apartment, or attended one of his parties.

vi. Stipulation I:

By early March of 1985, Nassau County detectives, specifically including Detective Joseph Volpe, were aware that John Restivo, Dennis Halstead, and John Kogut knew each other socially and had worked together.

vii. Stipulation J:

Concetta Napoli is Theresa Fusco's mother. Were Ms. Napoli called, she would testify that on November 10, 1984, she was living at 6 Windsor Place in Lynbrook, New York, with her sons John and Michael and her daughter Theresa Fusco (2012 tr. (9/25/12) at 517-18). She would testify that, in 1984, her daughter Theresa was 16 years old (2012 tr. (9/25/12) at 518) and was almost like sisters with her friend Lisa Kaplan, who lived down the street ((2012 tr. (9/25/12) at 524).

Ms. Napoli would testify that her daughter Theresa was a virgin (2012 tr. (9/25/12) at 555). She had had conversations with Theresa about sex, spoke to Theresa's best friend Lisa Kaplan about the subject after Theresa disappeared, and read Theresa's diary, and is confident that Theresa was a virgin (2012 tr. (9/25/12) at 555-56).

Ms. Napoli would testify that around 7:00 am on the morning of Saturday, November 10, 1984, as she was leaving for work, she spoke to Theresa as Theresa was on her way to take a shower (2012 tr. (9/25/12) at 535-36). When Ms. Napoli arrived home around 3:30 pm, Theresa was in the driveway (2012 tr. (9/25/12) at 539). Ms. Napoli and Theresa had a brief conversation, in which Theresa told her mother that she had attended a dance class at a studio on Atlantic Avenue between Sunrise Highway and Merrick Road (2012 tr. (9/25/12) at 530) and had met her friend Lisa Kaplan for lunch, and then Theresa left the house to go to meet Lisa, at Lisa's job, and walk her home (2012 tr. (9/25/12) at 539-41). Theresa returned between 4:30 and 4:45 pm, talked for a few minutes with Ms. Napoli, and then went upstairs to take another shower and prepare to go to work at Hot Skates on Merrick Road (2012 tr. (9/25/12) at 541). When Theresa came back downstairs, she made herself mini raviolis and talked with her mother while she ate (2012 tr. (9/25/12) at 542-43). She told her mother that she was working from 6:30 to 9:30 pm and then she was going to walk to Lisa Kaplan's house after work. (2012 tr. (9/25/12) at 543). Around 6:00 pm, Theresa left for work (2012 tr. (9/25/12) at 547). When she left, she was wearing a pair of

denim jeans with a striping, a denim jacket, and white high-top sneakers with blue lining (2012 tr. (9/25/12) at 544). After Theresa left for work that evening, Ms. Napoli never saw her daughter again.

Ms. Napoli reported all of the above information to the Nassau County police, specifically including Detective Volpe. (PX 10; PX 60)

[Citations were included for Defendants' reference, but would have been omitted in a final stipulation, had Defendants' agreed].

viii. Stipulation K:

Lisa Kaplan was Theresa Fusco's best friend. Were Ms. Kaplan called, she would testify that as of November 10, 1984, she had been best friends with Theresa Fusco for about three years and that they attended high school together (2012 tr. (9/27/12) at 651). She would testify that on November 10, 1984, she lived with her father and her mother Carmella Kaplan at 25 Malden Avenue, in the same neighborhood as Theresa (2012 tr. (9/27/12) at 651).

Based on her personal knowledge of Theresa, Lisa believes that Theresa was a virgin (2012 tr. (9/27/12) at 652).

Ms. Kaplan would testify that, on November 10, 1984, Theresa met her for lunch around 12 pm, and that they went together to lunch at Burger King (2012 tr. (9/27/12) at 654). After lunch, Theresa walked Ms. Kaplan back to work, and the two of them made plans for Theresa to meet Ms. Kaplan after her shift was over at about 4:00 pm (2012 tr. (9/27/12) at 655). She and Theresa parted company around 12:30 pm (2012 tr. (9/27/12) at 655). Theresa met Ms. Kaplan when Ms. Kaplan's work shift was over at 4:00 pm, and they walked together to town (2012 tr. (9/27/12) at 655). Ms. Kaplan's boyfriend Robert Martini was celebrating a birthday that day, so they went to purchase a birthday card for him, and then walked together back to Ms. Kaplan's house (2012 tr. (9/27/12) at 656). Theresa and Ms. Kaplan then made plans to meet up again when Theresa was finished with work around 9:30 pm (2012 tr. (9/27/12) at 657). Theresa was to come to Ms. Kaplan's house to hang out with Ms. Kaplan and Ms. Kaplan's boyfriend Robert Martini (2012 tr. (9/27/12) at 657). After Theresa parted company with Ms. Kaplan shortly after 4:00 pm, Ms. Kaplan never saw Theresa again.

Ms. Kaplan reported all of the above information to the Nassau County police, specifically including Detective Volpe. (NC018311 (Typed Notes of Kaplan Interview))

[Citations were included for Defendants' reference, but would have been omitted in a final stipulation, had Defendants' agreed].

ix. Stipulation L:

Rochelle Bernstein owned Hot Skates, where Theresa Fusco worked, in November 1984. If Ms. Bernstein were called, she would testify that, on November 10, 1984, according to Theresa's time card, Theresa punched in to work at 6:28 pm, and punched out at 9:47 pm (2012 tr. (9/27/12) at 755-56).

[Citations were included for Defendants' reference, but would have been omitted in a final stipulation, had Defendants' agreed].

x. Stipulation M:

Between 2001 and 2011, Nassau County Detectives collected DNA samples from 86 people to compare to the male DNA profile recovered from Theresa Fusco (PX 684). During this period, detectives were actively seeking to test men who were either friends and associates of John Restivo, Dennis Halstead, or John Kogut or were possible boyfriends or male acquaintances of Theresa Fusco (2012 tr. (10/11/12) at 2299-301). The detectives' working theory in collecting and testing these samples was to identify either an unknown fourth man who committed the rape and murder along with Mr. Restivo, Mr. Halstead, and Mr. Kogut or an unknown consensual sexual partner of Theresa Fusco. *Id.* All of those 86 individuals have been excluded as the source of the semen found in Miss Fusco's vaginal cavity.

[Citations were included for Defendants' reference, but would have been omitted in a final stipulation, had Defendants' agreed].

xi. Stipulation N:

At John Restivo and Dennis Halstead's 1986 criminal trial, the State presented evidence that two hairs, which were consistent with Theresa Fusco's hairs, were allegedly recovered from John Restivo's van. Mitochondrial DNA testing, which was conducted in 2002, shows that those two hairs are, in fact, Theresa Fusco's.

Proposed Stipulation based on Mitotyping Technologies Report, dated 10/21/02, and Defendants' Expert Report from Dr. Terry Melton, dated 4/9/12.

xii. Stipulation O:

However, Exhibit ##s 141 and 142 were not in the corresponding Nassau County District Attorney's files regarding the prosecution of John Restivo, Dennis Halstead, or John Kogut.

Stipulations of Law:

Plaintiffs propose a stipulation that the individual defendants were acting under color of state law and within the scope of their employment in connection with their work on the Fusco investigation.

Defendants object to the stipulation and object to the inclusion of Plaintiffs' proposed stipulations. As per the Individual Motion Practices of Judge Seybert, the pre-trial order shall include "any stipulations or agreed statements of fact or law which have been agreed to by all parties." Proposed stipulations do not fall into this category.

Plaintiffs reserve the right to utilize any and all exhibits identified in the Defendants' Exhibit List.

Plaintiffs reserve the right to utilize any and all designated deposition testimony listed by the defendants, as well as, any and all trial testimony from the plaintiffs' criminal trial subject to witness availability, the Federal Rules of Evidence, Rule 26 of Federal Rules of Civil Procedure and the pending rulings on *in limine* motions and objections.

Defendants reserve the right to utilize any and all exhibits identified in the Plaintiffs' Exhibit List.

Defendants reserve the right to utilize any and all designated deposition testimony listed by the Plaintiffs, as well as any and all trial testimony from the plaintiffs' criminal trial subject to witness availability, the Federal Rules of Evidence, Rule 26 of Federal Rules of Civil Procedure and the pending rulings on *in limine* motions and objections.

The parties agree that they may utilize on their case in chief or in rebuttal any exhibit introduced into evidence during the criminal trials not specified in the exhibit lists subject to a party's objection on grounds other than surprise or the failure to specifically designate the item as an exhibit.

Please also note, by agreement, the parties have given each other notice that Plaintiffs and Defendants have each reserved the right to use all deposition transcripts, *People v. Kogut* (1985) trial transcripts, *People v. Restivo & Halstead* (1986) trial transcripts, *People v. Kogut* (2005) trial transcripts, and *Kogut, et al. v. Nassau County, et al.* (2012) trial transcripts, for impeachment purposes, subject to any other objections.

8. Witness Lists:

Plaintiffs' Witness List:

**All addresses of defendants and NCPD witnesses are c/o defense counsel at Freeman, Nooter & Ginsberg, and all addresses of plaintiffs and plaintiffs' family members are c/o plaintiffs' counsel at Neufeld Scheck & Brustin.*

*** Plaintiffs continue to work to narrow their presentation at this re-trial. In that spirit, Plaintiffs proposed a number of stipulations in lieu of testimony based on certain*

witnesses' repeated testimony at the four prior trials related to this case, as noted; Defendants have refused to so stipulate. Furthermore, please note that based on the Court's rulings on the Motions in Limine, some witnesses listed here may become unnecessary.

Defendants respond that Plaintiffs have proposed stipulations of trial testimony for 5 witnesses. A total of 68 witnesses appear on their liability witness list. To suggest that Defendants are hampering plaintiffs' ability to narrow their case is disingenuous. Plaintiffs have failed to indicate which witnesses testified in *Kogut v. Cty. of Nassau* (2012)

Plaintiffs reply that Plaintiffs proposed stipulations that would obviate the need for trial testimony from 10 witnesses, including Liora Ben-Sorek, Robert Biancavilla, Judge Edward McCarty, Theodore Robinson, Concetta Napoli, Lisa Kaplan Johnson, Rochelle Bernstein, Terry Melton, Monica Shah, and Michael O'Leary, and note that only 16 witnesses appear on Plaintiffs' Will Call witness list.

A. Will Call

Wayne Birdsall, defendant

Detective Birdsall will testify about his examination of the Restivo van for bodily fluid evidence on March 26, 1985, his reporting of his findings, his assisting Charles Fraas in processing the van for trace evidence, his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision as well as the NCPD's Scientific Investigation Bureau (SIB).

Dr. Tamara Bloom

Nassau County Medical Examiner's Office
2251 Hempstead Turnpike, Building R
East Meadow, NY 11554

Dr. Bloom is the chief medical examiner for the Nassau County Medical Examiner's Office and is expected to testify regarding the homicide and autopsy of Theresa Fusco. Dr. Bloom previously testified in *People v. Kogut* (2005).

Russell Fischer

11035 NW 28 Drive
Coral Springs, Florida 33065

Mr. Fischer will testify as an expert on police practices, consistent with his report.

Object based on FRE 402 and 403; see, D.E. 138, Response in Opposition re 134 Motion in Limine on the Scope of Police Practices Expert Testimony.

Charles Fraas, defendant

Former Det. Fraas will testify about his role in the Fusco investigation, specifically including his processing the Restivo van for trace evidence, the chain of custody of hair evidence, his microscopic comparison of hairs, his reporting of results, and his knowledge of NCPD and SIB practices, customs, policies, training and supervision.

Dennis Halstead, plaintiff

Mr. Halstead will testify regarding liability and damages.

Max Houck

P.O. Box 6250
Arlington, VA 22206

Dr. Houck will testify as an expert in forensic anthropology and forensic hair examination regarding postmortem hair banding, consistent with his report and testimony at the *Daubert/Kumho Tire* hearing.

Object based on FRE 402 and 403; see, D.E. 136, Response in Opposition re 133 Motion *in Limine* to Modify Daubert Ruling on Post-Mortem Root Banding Issue.

Fred Klein, Esq.

c/o Michael Sepe, Esq.
11 Clinton Avenue
Rockville Centre, N.Y. 11570

Mr. Klein was the trial prosecutor in the 1986 trials of plaintiffs. He will testify about whether he received certain information during those proceedings. Mr. Klein will also testify about his knowledge of *Brady* violations in the Lee case.

Hon. Edward W. McCarty, III

Nassau County Supreme Court
100 Supreme Court Drive
Mineola, NY 11501

Judge McCarty was a deputy district attorney for the Nassau County District Attorney's Office at the time that Mr. Halstead and Mr. Restivo were arrested and will testify about whether he received certain information during those proceedings as well as the preparation of eavesdropping warrants and supporting affidavits with defendant Volpe in 1985 prior to the empanelling of a grand jury. Plaintiffs proposed a stipulation in lieu of Judge McCarty's live testimony, however, Defendants refused to so stipulate.

Nicholas Petraco

73 Ireland Place
Suite 128

Amityville, NY 11701

Mr. Petraco will testify as an expert in forensic hair examination regarding postmortem hair banding and his observations and comparison of hair evidence as a prosecution witness in the underlying criminal proceedings, consistent with his report and testimony at the *Daubert/Kumho Tire* hearing.

Object based on FRE 402 and 403; see, D.E. 138, Response in Opposition re 133 Motion *in Limine* to Modify Daubert Ruling on Post-Mortem Root Banding Issue.

John Restivo, plaintiff

Mr. Restivo will testify as to liability and damages.

Theodore Robinson, Esq.
26 St. Paul's Place
Hempstead, NY 11501

Plaintiffs proposed a stipulation in lieu of Mr. Robinson's live testimony, and subject to the Court's rulings on Plaintiffs' Motions *in Limine*; however, Defendants refused to so stipulate. Mr. Robinson represented Mr. Restivo at his criminal trial and post-conviction proceedings and will testify that he was never made aware of the striped jeans/John French lead. If plaintiffs' motion *in limine* to preclude the introduction of evidence of statements made by John Restivo is not granted, he will also testify about the interrogation and arrest of Mr. Restivo for the rape and murder of Theresa Fusco, and the pre-trial, trial, and post-conviction proceedings that followed, and about his knowledge and documentation of the injuries Mr. Restivo suffered after his interrogation by the defendant officers.

Frank Sirianni, defendant*

Det. Sirianni will testify as to his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision. As he resides in Florida and his doctor represents that he is unable to fly, his testimony will be offered by way of videotaped deposition pursuant to Rule 32.

Sean Spillane, defendant

Former Lt. Spillane was the commanding officer of the NCPD's Homicide Bureau during the original Fusco investigation. He will testify as to his role in the Fusco investigation, his recommendation that defendant Volpe and officers Connaughton and Diehl receive a commendation for their work, and his knowledge of NCPD practices, customs, policies, training and supervision.

Joseph Volpe, defendant (deceased)*

Det. Volpe was the lead detective in the Fusco investigation. His deposition was videotaped and will be offered pursuant to Rule 32. He testified about his role in the Fusco investigation, as well as his knowledge of NCPD practices, customs, policies, training and supervision.

Peter Weinstein, Esq.
5301 Fountains Dr. South, Apt 603
Lake Worth, FL 33467

Mr. Weinstein was the Chief of the Appeals Bureau of the Nassau County District Attorney's Office during the post-conviction litigation of the underlying criminal case. He will testify about whether he received certain information during those proceedings.

Charlotte J. Word, Ph.D.
P.O. Box 5207
Gaithersburg, MD 20882

Dr. Word is a DNA expert. She will testify about the forensic evidence and DNA results reported by various laboratories using various techniques, as per her expert report.

Object based on FRE 402 and 403; see, D.E. 135, Motion in Limine to Preclude Evidence re: Undisputed Favorable Termination Element and to Preclude DNA Testimony.

Custodians of Records, as necessary

B. May Call

Thomas Allen

Detective Allen will testify about his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision.

Marcello Baez
22 Park Place
Lynbrook, NY 11563

Mr. Baez is expected to testify regarding his discovery of the corpse of Theresa Fusco on December 5, 1984 and subsequent events. Mr. Baez previously testified in *People v. Kogut* (2005).

Robert Baumann
Suffolk County Crime Laboratory
Building 487
North County Complex
Veterans Highway
New City, NY 10956

Robert Baumann was a serologist for the Nassau County Medical Examiner's Office and will testify about forensic evidence obtained from Theresa Fusco's corpse. Mr. Baumann testified in *People v. Restivo & Halstead* (1986), *People v. Kogut* (1986) and *People v. Kogut* (2005).

Rochelle Bernstein
1414 Merrick Road
Lynbrook, NY 11563

Plaintiffs proposed a stipulation in lieu of Ms. Bernstein's live testimony; however, Defendants refused to so stipulate. Ms. Bernstein is the owner of Hot Skates and will testify to Theresa Fusco's employment at Hot Skates, and the time she arrived and departed from work on November 10, 1984.

Liora Ben-Sorek, Nassau County Attorney's Office

Plaintiffs proposed a stipulation based on Ms. Ben-Sorek's affirmation in lieu of her live testimony; however, Defendants refused to so stipulate. Ms. Ben-Sorek is an attorney with the Nassau County Attorney's Office and former attorney for the Defendants. She will testify consistent with her affirmation (DE 53-1 (06-CV-6695) that in 2007, the "French Documents" were among the NCPD files, but were not among the NCDA files.

Object based on FRE 402 and scope of knowledge.

Robert Biancavilla

Plaintiffs proposed a stipulation based on Defendants' Responses to Plaintiffs' Second Set of Requests for Admissions regarding Mr. Biancavilla's recollection of the "French Materials" in lieu of Mr. Biancavilla's live testimony; however, Defendants refused to so stipulate. Mr. Biancavilla will testify that, as the prosecutor assigned to the Theresa Fusco rape and murder in 2003, he never saw the French materials when he carefully reviewed the complete DA's file between 2003 and 2005.

Elizabeth Cagan
1893 Emma Lee Lane
Hanford, CA 93230

Elizabeth Cagan was a customer of Move-Rite Movers and will testify about a moving job performed on November 10, 1984 by Move-Rite Movers, the NCPD's interview of and display of photographs to her and her husband Steven, and her ultimate identification of the men who did the moving job.

Steven Cagan
739 Paseo Camarillo, Apt. 63
Camarillo, CA 93010

Steven Cagan was a customer of Move-Rite Movers and will testify about a moving job performed on November 10, 1984 by Move-Rite Movers, the NCPD's interview of and display of photographs to him and his wife Elizabeth.

Anna Campbell
2944 Lindale Street
Wantagh, New York 11975

Ms. Campbell was a neighbor of the Restivos on Doxsie Place in Lynbrook who will testify to having seen the blue van on blocks in November of 1984.

Dorsha Campbell
18203 Neff Rd
Cleveland OH 44119-2646

Mrs. Campbell will testify about Move-Rite's moving a piano into her house in Hempstead on or about November 24, 1984, and the police interview of her about that on or about April 3, 1985.

Michael Cockerel
316 Beach 63 St.
Queens, NY 11692

Michael Cockerel will testify as to John Restivo's whereabouts and activities on November 10, 1984, as well as his knowledge of the NCPD investigation.

Kenneth Cockerel
78 Union Avenue
Lynbrook, NY

Kenneth Cockerel will testify to the NCPD's coercive and suggestive interrogation of him in 1985, and his grand jury testimony, and his knowledge of the NCPD investigation.

Michael Connaughton

Officer Connaughton will testify about his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision.

Carolann Davies
Current address unknown

Propose to offer R/H trial testimony. Testified regarding Dennis Halstead conducting work on her house on November 10, 1984, his children arriving on bicycles, eating lunch, and leaving in the afternoon.

Object to offering trial testimony. Plaintiffs have not proven unavailability under FRE 804.

Debbie DeCarlo
1504 White Hall Dr. #103
Davie, FL 33324

Ms. DeCarlo will testify about the theft of her license plates in 1984; those plates being found on John French's car when the car was recovered after being stolen the night of Theresa Fusco's disappearance; and the subsequent NCPD investigation of the possible links between the theft of her plates and Fusco homicide.

Thomas DeCrascenzo
Current address unknown

Propose to read TT of R/H trial, regarding a 15-20 minute phone call he received at 8:10 p.m. on November 10, 1984, and conversation with John Restivo and Michael Cockerel. Alibi witness.

Object to offering trial testimony. Plaintiffs have not proven unavailability under FRE 804.

Peter DeForest
P.O. Box 141
Ardsley, NY 10502-0141

Mr. DeForest will testify as an expert in forensic hair examination regarding postmortem hair banding and his observations and comparison of hair evidence as a defense witness in the underlying criminal proceedings, consistent with his report and testimony at the *Daubert/Kumho Tire* hearing.

Object based on FRE 402 and 403; see, D.E. 138, Response in Opposition re 133 Motion *in Limine* to Modify Daubert Ruling on Post-Mortem Root Banding Issue.

Robert Dempsey, defendant

Det. Dempsey will testify about his role in the Fusco investigation, and his knowledge of NCPD practices, customs, policies, training and supervision.

William Diehl

Officer Diehl will testify about his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision.

Vincent Donnelly

Det. Donnelly will testify about his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision.

Robert Edwards

Sgt. Edwards will testify about his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision.

Dennis Farrell, former NCPD Det. Lt.

Former Det. Lt. Farrell will testify about his role overseeing the NCPD's "reinvestigation" and "blind-eye" investigation of the Fusco homicide and his knowledge of NCPD practices, customs, policies, training and supervision.

Defendants object based on FRE 402.

Arthur Fleishman

Address unknown

Mr. Fleishman testified as a defense witness at the criminal trial of Mr. Halstead and Mr. Restivo. He is likely to have discoverable information related to the reputation of Brian O'Hanlon.

John French

224 Rolling Street
Malverne, NY 11565

Mr. French will testify about the theft of his car on the night that Theresa Fusco disappeared; the condition, location and contents of the car when it was recovered (including striped girls' jeans); and NCPD investigation of the possible links between the theft of the car and the Fusco homicide, as per his deposition.

Lori French Gabberty

2426 Wood Avenue
Bellmore, NY 11710

Mrs. Gabberty will testify about the theft of her brother's car on the night that Theresa Fusco disappeared; the condition, location and contents of the car (including striped girls' jeans) when it was located; and NCPD investigation of the possible links between the theft of the car and the Fusco homicide, as per her deposition.

Frederick Goldman, NCPD Det.

Defendants object based on FRE 402.

Thomas Gilhooley

Current address unknown

Offer TT in lieu of live testimony; was Theresa Fusco's boss at Hot Skates. Testimony about her dismissal and exit from Hot Skates on November 10, 1984.

Object to offering trial testimony. Plaintiffs have not proven unavailability under FRE 804.

Jason Halstead, c/o NSB

Jason is the son of plaintiff Dennis Halstead and will testify about Dennis Halstead's whereabouts on November 10, 1984 and damages.

Robert Hillman, NCPD Det.

Defendants object based on FRE 402.

Lisa Kaplan Johnson

12 Summerfield Drive
Holtsville, NY 11742

Plaintiffs proposed a stipulation based on Ms. Kaplan Johnson's repeated prior trial testimony in lieu of her live testimony; however, Defendants refused to so stipulate. Ms. Johnson was Theresa Fusco's best friend and will testify about Theresa Fusco's activities and plans on November 10, 1984, and her knowledge of Miss Fusco's lack of sexual activity.

Leo Klein

273 Lexington Ave.
West Babylon, NY 11704

Leo Klein will testify about his misdating a receipt for equipment rented by John Restivo on November 10, 1984, his correction of that receipt, and the NCPD's questioning of him. He testified at the Restivo/Halstead trial in 1986.

Lucille Klein, aka Roxanne Pizzolo

5165 Merrick Road
Massapequa Park, NY 11762-3728

Mrs. Klein was the wife of Leo Klein, who testified during the criminal trial of Mr. Halstead and Mr. Restivo, and is likely to have discoverable information related to coercive conduct by NCPD defendants in questioning her husband.

Albert Martino, defendant

Det. Martino will testify about his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision.

Defendants have been informed that Detective Martino is unavailable for testimony due to illness.

Dr. Terry Melton

Mitotyping Technologies, LLC
2565 Park Center Blvd.
Suite 200
State College, PA 16801

Plaintiffs proposed a stipulation based on Defendants' April 9, 2012 Report from Dr. Melton in lieu of Dr. Melton's live testimony; however, Defendants refused to so stipulate. Dr. Melton is expected to testify as an expert regarding the DNA analysis of a sample of Theresa Fusco's hairs and two hair samples recovered from John Restivo's blue Econoline van.

Frank Meyers, deceased*

Mr. Meyer was a former FBI agent and plaintiff John Restivo's uncle. His deposition was recorded on videotape and will be offered pursuant to Rule 32. He testified about seeing John Restivo's blue van in the driveway of Frida Restivo, on blocks, on Saturday evening, November 10, 1984.

Deputy U.S. Marshal Michael Morpeau

225 Cadman Plaza East (G-20)
Brooklyn, NY 11201

Mr. Morpeau is a Deputy United States Marshal based in the Eastern District of New York, who has discoverable information about his unsuccessful attempt to serve Kenneth Cockerel at 78 Union Avenue, Lynbrook, with a court-ordered order to show cause and deposition subpoena in this action.

Defendants object based on FRE 402.

Concetta Napoli

6 Windsor Place
Lynbrook, New York 11563

Plaintiffs proposed a stipulation based on Ms. Napoli's repeated prior testimony in lieu of her live testimony; however, Defendants refused to so stipulate. Ms. Napoli is the mother of Theresa Fusco and will testify about her daughter's last day, her clothing and accessories, and that she was a virgin. She was a witness at the criminal trials.

Michael O'Leary, former NCPD Det.

Det. O'Leary will testify about the "reinvestigation" of the Fusco case, his contacts with defendant Volpe, and his knowledge of NCPD practices, customs, policies, training and supervision.

Defendants object based on FRE 402.

Brian O'Hanlon

234 Ocean Ave., Lynbrook, NY 11563 or
116 Bedford Avenue, Merrick, NY 11566

Brian O'Hanlon testified as a witness in the 1986 Restivo/Halstead trial. He will testify about his role in the Fusco investigation, benefits he received for his testimony, and the NCPD conspiracy.

Daniel Perrino, deceased

Det. Perrino will testify about his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision. Plaintiffs reserve the right to offer any trial testimony of Det. Perrino.

Detective Perrino is deceased.

Carl Pozzini

75 Beatrice Ave.
West Islip, NY 11795

Mr. Pozzini was a fact witness at Mr. Halstead and Mr. Restivo's criminal trial and will testify about his interactions with NCPD defendants who elicited false statements from him.

David Rapp*

417 Spring Avenue
Liberty, MO 64048

As he resides out of state, Mr. Rapp's sworn deposition testimony will be offered. His testimony is about NCPD defendants' coercive and suggestive interrogation of him, and statements they elicited from him.

Defendants object based on prior ruling of Court, pages 2200-2201 of trial transcript.

Frida Restivo, c/o NSB

Mrs. Restivo is plaintiff John Restivo's mother and will testify about his van being in her driveway on blocks on November 10, 1984, as well as damages.

Monica Shah, c/o NSB

Ms. Shah is a former fellow with Neufeld Scheck & Brustin, LLP, and former attorney for Dennis Halstead and John Restivo. She will testify about her search of the Nassau County District Attorney's files and the Nassau County Police Department files related to Theresa Fusco and/or John Restivo, Dennis Halstead, and John Kogut in 2007 and to her observation that the "French materials" were among the NCPD files, but were not among the NCDA files. Plaintiffs proposed Stipulation # D which would have covered the subject matter of Ms. Shah's testimony; however, Defendants refused to so stipulate.

Defendants object based on FRE 402.

Jack Sharkey

Det. Sharkey will testify about his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision.

Harold Smyle

460 Salisbury Park Drive, Apt. 1K
Westbury, New York 11590

Mr. Smyle was a witness at the 1986 Restivo/Halstead trial. He will testify about his knowledge of the operability of the Restivo blue van, his contact with NCPD defendants, and the coercive questioning that induced him to make false statements against Restivo.

Mary Ann Rosino Vasquez

48 Washington Avenue
Lynbrook, New York.

Ms. Vasquez will testify about seeing Theresa Fusco leave Hot Skates on November 10, 1984 and her interaction with NCPD officers.

Anthony Walsh

Current address unknown

Propose to offer TT from R/H trial. Was an NCCC inmate regarding Steven Dorfman and John Restivo. Testified for the Restivo defense as impeachment of Dorfman.

Object to offering trial testimony. Plaintiffs have not proven unavailability under FRE 804.

Harry Waltman, defendant

Det. Waltman will testify as to his role in the Fusco investigation and his knowledge of NCPD practices, customs, policies, training and supervision.

C. Damages Witnesses

Frances Berry Doyle
1342 Menard St.
Uniondale, NY 11553

Mrs. Doyle was Mr. Halstead's counselor prior to his arrest in the Fusco case. She will testify as to damages.

Defendants object based on FRE 402; insufficient description of relevance.

Dr. Elizabeth Ford
200 E. 94th St. #808
New York, NY 10128

Dr. Ford is a psychiatrist will testify as an expert as to Dennis Halstead's damages.

Dennis Halstead, plaintiff

Mr. Halstead will testify regarding damages.

Jason Halstead, c/o NSB
Heather Halstead, c/o NSB
Taylor Halstead, c/o NSB
Melissa Halstead Lullo, c/o NSB

Jason, Heather, Taylor and Melissa Halstead are children of plaintiff Dennis Halstead and will testify about damages.

Margaret Niedecker, c/o NSB

Ms. Niedecker is married to John Restivo and will testify as a damages witness.

Frida Restivo, c/o NSB

Mrs. Restivo is plaintiff John Restivo's mother and will testify about damages.

John Restivo, plaintiff

Mr. Restivo will testify regarding damages.

Dr. Steven Simring
72 Churchill Rd.
Tenafly, NJ 07670

Dr. Simring is a forensic psychiatrist who will testify as to John Restivo's damages.

D. Monell and/or Punitive Damages Witnesses

Gregory Brock

c/o New York State Department of Corrections

Mr. Brock will testify as to his role in the Joshua Chisolm homicide and that Robert Moore was not involved or present at that time.

Defendants object as Mr. Brock was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Jareau Carter

Address Unknown

Mr. Carter will testify as to his role in the Jose Alberto Cruz homicide and that Jose Anibal Martinez was not involved or present at that time.

Defendants object as Mr. Carter was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

ADA Joseph Dompkowski

c/o Nassau County District Attorney's Office
262 Old Country Road
Mineola, New York 11501

ADA Dompkowski will testify concerning the dismissal of the Robert Moore criminal complaint for the murder of Joshua Chisolm along with his knowledge of the false confession of Robert Moore.

Defendants object as ADA Dompkowski was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Retired Detective Frank Guidice

Mr. Guidice will testify concerning his supervisory role within the Nassau County Police Department Homicide Bureau, its policies and procedures, and his knowledge of numerous false confessions in homicide cases.

Defendants object as Det. Guidice was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Shonnard Lee

c/o Grandinette & Serio

Mr. Lee will testify about defendant Dempsey's coercing and fabrication of evidence in his homicide case, his subsequent complaints, lawsuit, and civil verdict.

Defendants object as Mr. Lee was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Silas Lee
9 Jackson Place
Freeport, NY 11520

Mr. Lee will testify as to Shonnard Lee's whereabouts on the date and time of Sammy Jones' death and the subsequent events surrounding Shonnard's arrest and malicious prosecution in State and Federal Court.

Defendants object as Mr. Lee was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Dorothy Lee
9 Jackson Place
Freeport, NY 11520

Ms. Lee will testify about her son Shonnard Lee's false arrest and malicious prosecution in State and Federal Court.

Defendants object as Mrs. Lee was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Dennis Lempke, Esq.
114 Old Country Road
Mineola, NY 11501

Mr. Lempke will testify concerning the malicious prosecution of Shonnard Lee for the murder of Sammy Jones including the withholding of critical *Brady* material during Lee's criminal prosecution and his knowledge of other false confessions obtained by Nassau County Police Department, including Blair Gardner.

Defendants object as Mr. Lempke was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Regan Martin, Deceased

Mr. Martin was an eyewitness to the homicide of Sammy Jones. His deposition was recorded on videotape and will be offered pursuant to Rule 32.

Defendants object as Mr. Martin was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Anibal Martinez
c/o Grandinette & Serio

Mr. Martinez will testify as to the fabrication of false evidence against him, including a false confession, by the Nassau County Police Department in a homicide prosecution of Jose Alberto Cruz and the events surrounding his criminal prosecution, dismissal of his charges, and subsequent civil action and settlement.

Defendants object as Mr. Martinez was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Honorable Judge James McCormack
262 Old Country Road
Mineola, New York 11501

Judge McCormack will testify concerning facts related to the criminal prosecution of Douglas Smith for the homicide of Joshua Chisolm.

Defendants object as Judge McCormack was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Robert Moore
c/o Grandinette & Serio

Mr. Moore is ill living out of state and is unavailable. Mr. Moore's deposition testimony will be offered regarding coercion and fabrication of a false homicide confession from him, the subsequent dismissal of all criminal charges against him, followed by his 1983 claim.

Defendants object as Mr. Moore was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Andre Myrie
Address Unknown

Mr. Myrie will testify as to his role in the Joshua Chisolm homicide and that Robert Moore was not involved or present at that time.

Defendants object as Mr. Myrie was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

K. O'Donnell, Esq.

Will testify concerning facts related to the criminal prosecution of Jareau Carter for the homicide of Alberto Cruz.

Defendants object as O'Donnell was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Robert Peck, Esq.
107 Dogwood Lane
Manhasset, New York

Mr. Peck was Mr. Martinez's criminal attorney and Mr. Peck will testify concerning about his knowledge about the criminal prosecution of Mr. Martinez including the false confession created by the Nassau County Police Department and the subsequent prosecution of Jareau Carter, the true killer of Jose Alberto Cruz.

Defendants object as Mr. Peck was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

William Rost, Esq.
33 Willis Avenue
Mineola, New York 11501

Mr. Rost will testify concerning facts related to the criminal prosecution of Gregory Brock for the homicide of Joshua Chisolm.

Defendants object as Mr. Rost was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Retired Detective Daniel Severin

Mr. Severin will testify concerning the operation of the Homicide Bureau during his tenure within the bureau, his knowledge of the Jose Alberto Cruz murder investigation and prosecution, and his knowledge of other false confession cases within the Nassau County Police Department.

Defendants object as Detective Severin was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Douglas Smith

Mr. Smith will testify as to his role in the Joshua Chisolm homicide and that Robert Moore was not involved or present at that time.

Defendants object as Mr. Smith's was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Detective Edwin Trujillo

Detective Trujillo will testify concerning the homicide and prosecution related to the death of Jose Alberto Cruz.

Defendants object as Detective Trujillo was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

Henrietta Williams

45 Rutland Road
Freeport, New York

Ms. Williams will testify concerning her eyewitness observations relative to the assault of Samuel Jones on February 10, 1997.

Defendants object as Ms. Williams was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

John Youngblood, Esq.

New York County Defender Services
225 Broadway Suite 111
New York, New York 10007
(212)803-5160

Mr. Youngblood will testify his assignment to the Moore case from the New York Capital Defenders office and his knowledge about the case including the false confession of Robert Moore and subsequent dismissal of the charges.

Defendants object as Mr. Youngblood was never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of

time under FRE 403.

Additional witnesses TBA:

Defendants object to all “TBA” witnesses. Per Judge Seybert’s Individual Motion Practices “only listed witnesses will be permitted to testify except when prompt notice has been give and good cause shown.” Defendants also object as these “TBA” witnesses were never disclosed under FRCP 26(a), (b) or (e). In addition, defendants object to relevance under FRE 402 and prejudice, confusion and waste of time under FRE 403.

TBA, Esq.

Will testify concerning facts related to the criminal prosecution of Jareau Carter for the homicide of Alberto Cruz.

TBA, Esq.

Will testify concerning facts related to the criminal prosecution of Gregory Brock for the homicide of Joshua Chisolm

TBA, Esq.

Will testify concerning facts related to the criminal prosecution of Douglas Smith for the homicide of Joshua Chisolm

TBA, Esq.

Will testify concerning facts related to the criminal prosecution of Adrienne Hudgen for the homicide of Joshua Chisolm.

Defendants’ Witness List:

Retired Detective Thomas Allen

Det. Allen is a named defendant and is expected to testify regarding the investigation of the Theresa Fusco homicide as well as patterns and practices of the Nassau County Police Department in 1984-1986. Det. Allen previously testified in the grand jury investigation regarding the Theresa Fusco homicide, in People v. Restivo (1986), in People v. Kogut (1986), in People v. Kogut (2005) and in Kogut v. Cty. of Nassau (2012).

Marcello Baez
22 Park Place
Lynbrook, NY 11563

Mr. Baez is expected to testify regarding his discovery of the corpse of Theresa Fusco on December 5, 1984 and subsequent events. Mr. Baez previously testified in *People v. Kogut* (2005) and *Kogut v. Cty. of Nassau* (2012).

Robert Baumann

Suffolk County Crime Laboratory
Building 487
North County Complex
Veterans Highway
New City, NY 10956

Mr. Baumann was a serologist for the Nassau County Medical Examiner's Office and is expected to testify regarding forensic evidence obtained from Theresa Fusco's corpse and the autopsy of Theresa Fusco. Mr. Baumann previously testified in *People v. Restivo* (1986) and in *People v. Kogut* (2005).

Police Officer Edward Beahr

Edward Beahr was a police officer in the Nassau County Police Department in 1985 and is expected to testify regarding forensic evidence relevant to the investigation of the Theresa Fusco homicide as well as patterns and practices of the Nassau County Police Department in 1985. Mr. Beahr previously testified in *People v. Restivo* (1986) and in *People v. Kogut* (2005).

Rochelle Bernstein

Hot Skates
14 Merrick Road
Lynbrook, NY 11563

Rochelle Bernstein is the owner of Hot Skates roller rink located at 14 Merrick Road. Ms. Bernstein is expected to testify regarding Theresa Fusco's behavior prior to her disappearance on November 10, 1984 and the time and circumstances under which Ms. Fusco was fired and left Hot Skates on November 10, 1984. Ms. Bernstein previously testified in *People v. Restivo* (1986), in *People v. Kogut* (1986), in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012).

Plaintiffs object to Ms. Bernstein's testimony under FRE 401–402, and given its low probative value, as cumulative evidence, undue delay and a waste of time under FRE 403; the facts and circumstances regarding Ms. Fusco's leaving Hot Skates after punching out at 9:47 p.m. on November 10, 1984, are not in dispute.

Detective Wayne Birdsall

Detective Wayne Birdsall is a named defendant and is expected to testify is expected to testify regarding forensic evidence relevant to the investigation of the Theresa Fusco homicide as well as patterns and practices of the Nassau County Police Department in 1985. Det. Birdsall

previously testified in *People v. Restivo* (1986), in *People v. Kogut* (1986), in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012).

Dr. Tamara Bloom

Nassau County Medical Examiner's Office
2251 Hempstead Turnpike, Building R
East Meadow, NY 11554

Dr. Bloom is the chief medical examiner for the Nassau County Medical Examiner's Office and is expected to testify regarding the homicide and autopsy of Theresa Fusco. Dr. Bloom previously testified in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012).

Police Officer Blumgrene, or Blomgren

Officer Blumgrene was a Nassau County police officer in 1985 and is expected to testify regarding forensic evidence relevant to the investigation of the Theresa Fusco homicide as well as patterns and practices of the Nassau County Police Department in 1985.

Elizabeth Cagan

1893 Emma Lee Lane
Hanford, CA 93230

Elizabeth Cagan was a customer of Move-Rite Movers and is expected to testify regarding a moving job performed on November 10, 1984 by Move-Rite Movers.

Plaintiffs object to Ms. Cagan's testimony on the grounds of relevance, FRE 401 – 402, and that given its lack of probative value, as cumulative evidence, undue delay and a waste of time under FRE 403.

Steven Cagan

739 Paseo Camarillo, Apt. 63
Camarillo, CA 93010

Steven Cagan was a customer of Move-Rite Movers and is expected to testify regarding a moving job performed on November 10, 1984 by Move-Rite Movers.

Plaintiffs object to Mr. Cagan's testimony on the grounds of relevance, FRE 401 – 402, and that given its lack of probative value, as cumulative evidence, undue delay and a waste of time, under FRE 403.

Dorsha Campbell

18203 Neff Rd
Cleveland OH 44119-2646

Dorsha Campbell was a customer of Move-Rite Movers and is expected to testify regarding a moving job performed on November 24, 1984 by Move-Rite Movers.

Plaintiffs object to Ms. Campbell's testimony on the grounds of relevance, FRE 401 – 402, and that given its lack of probative value, as cumulative evidence, undue delay and a waste of time, under FRE 403.

Detective Jay Caputo

Detective Caputo is expected to testify regarding the process of photographing a crime scene and his role in processing the crime scene of Theresa Fusco's homicide.

Kenneth Cockerel
79 Union Avenue
Lynbrook, NY 11563

Kenneth Cockerel is expected to testify regarding an admission made by John Restivo. Mr. Cockerel previously testified in the grand jury proceeding of People v. John Doe Investigation (1985) and in Kogut v. Cty. of Nassau (2012).

Michael Cockerel
316 Beach 63 St.
Queens, NY 11692

Michael Cockerel was an associate of the plaintiffs, an employee of John Restivo's and is expected to testify regarding admissions from John Restivo and Dennis Halstead regarding the homicide of Theresa Fusco, being assaulted by Charles Restivo and being intimidated by Rick Arden and the friends and family of John Restivo. Mr. Cockerel previously testified in the grand jury investigation regarding Theresa Fusco's homicide and in People v. Restivo (1986).

Police Officer Michael Connaughton

Officer Connaughton is is expected to testify regarding the investigation of the Theresa Fusco homicide and patterns and practices of the Nassau County Police Department in 1985. Mr. Connaughton previously testified in People v. Restivo (1986), in People v. Kogut (1986), in People v. Kogut (2005) and in Kogut v. Cty. of Nassau (2012).

Police Officer Ronald Crowe

Officer Crowe was a Nassau County police officer in 1985 and is expected to testify regarding forensic evidence relevant to the investigation of the Theresa Fusco homicide as well as patterns and practices of the Nassau County Police Department in 1985.

Carol Davies
Address unknown

Carol Davies was a customer of Dennis Halstead's aluminum siding business and is expected to testify regarding Dennis Halstead and John Kogut's behavior while they were working on her home in November of 1984. Ms. Davies previously testified in *People v. Restivo* (1986).

Plaintiffs object to Ms. Davies' testimony on the grounds of relevance, FRE 401 – 402, and that given its lack of probative value, as cumulative evidence, undue delay and a waste of time, under FRE 403.

Thomas DeCrescenzo

4 E. Evans Avenue
Bay Park, NY 11518

Thomas DeCrescenzo is expected to testify regarding a telephone conversation he had with John Restivo on November 10, 1984. Mr. DeCrescenzo previously testified in *People v. Restivo* (1986) and *Kogut v. Cty. of Nassau* (2012).

Detective Robert Dempsey

Detective Robert Dempsey is a named defendant and is expected to testify regarding the investigation of the Theresa Fusco homicide and patterns and practices of the Nassau County Police Department in 1985. Det. Dempsey previously testified in *People v. Kogut* (1986), in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012).

Police Officer William Diehl

Officer Diehl is a named defendant and is expected to testify regarding the investigation of the Theresa Fusco homicide and patterns and practices of the Nassau County Police Department in 1985. Mr. Diehl previously testified in *People v. Restivo* (1986).

Detective Sergeant Robert Edwards

Detective Sergeant Edwards is expected to testify regarding the investigation of the Theresa Fusco homicide and patterns and practices of the Nassau County Police Department in 1985. Det. Sgt. Edwards previously testified in *People v. Restivo* (1986), in *People v. Kogut* (2005).

Detective Charles Fraas

Detective Fraas is a named defendant and is expected to testify regarding investigation of the Theresa Fusco homicide and patterns and practices of the Nassau County Police Department in 1985. Det. Fraas previously testified in the grand jury investigation regarding the Theresa Fusco homicide, in *People v. Restivo* (1986), in *People v. Kogut* (1986) and in *People v. Kogut* (2005).

John French

364 Vincent Avenue
Lynbrook, NY 11563

John French is expected to testify regarding the theft of his 1971 Oldsmobile in December of 1984, subsequent retrieval of his stolen car, his interaction with the Lynbrook Police Department in connection with the stolen vehicle and his interactions with the Nassau County Police Department in connection with the Theresa Fusco homicide investigation.

Lori Gabberty

2526 Wood Avenue
Bellmore, NY 11710

Lori Gabberty is expected to testify regarding her assisting her brother in locating his stolen vehicle, the discovery of blue jeans in the stolen vehicle and her interactions with the Nassau County Police Department in connection with the Theresa Fusco homicide investigation.

Howard Garcia

587 Scranton Avenue
Lynbrook, NY 11563

Howard Garcia is expected to testify regarding the discovery of Theresa Fusco's corpse on December 5, 1984 and his reporting the discovery to the police department.

Thomas Gilhooley

Thomas Gilhooley was as assistant manager at Hot Skates roller rink in November 1984 and is expected to testify regarding Theresa Fusco's behavior in 1984 and the time and circumstances during Ms. Fusco was fired and left Hot Skates on November 10, 1984. Mr. Gilhooley previously testified in *People v. Restivo* (1986), in *People v. Kogut* (1986), in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012).

Dennis Halstead

Mr. Halstead is a plaintiff in this action and is expected to testify as to liability and damages.

Thomas Hennenlotter

42 Oakland Ave.
Lynbrook, NY 11563

Thomas Hennenlotter was an associate of the plaintiffs and is expecting to testify regarding Rick Arden's attempt to alter a statement that Mr. Hennenlotter had given to him and the operability of the blue Ford Econoline van in December of 1984.

Plaintiffs object to Mr. Henenlotter's testimony on the grounds of relevance, FRE 401 – 402, and that given its lack of probative value, as causing undue delay, waste of time, confusion of the issues, and more prejudicial than probative under FRE 403.

Lisa Johnson
12 Summerfield Drive
Holtsville, NY 11742

Lisa Johnson was Theresa Fusco's best friend and is expected to testify regarding the jewelry and clothing last worn by Theresa Fusco and her behavior in 1984. Mrs. Johnson previously testified in *People v. Restivo* (1986), in *People v. Kogut* (1986), in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012).

Leo Klein
273 Lexington Ave.
West Babylon, NY 11704

Leo Klein was the vice-president of Prez Tool Rental, Inc. in 1985 and is expected to testify regarding attempts by John Restivo and Rick Arden to alter dates on receipts for the purchase and rental of tools and materials. Mr. Klein previously testified in the grand jury investigation regarding Theresa Fusco's homicide and in *People v. Restivo* (1986).

Fred Klein
c/o Michael Sepe, Esq.
11 Clinton Avenue
Rockville Centre, NY 11570

Mr. Klein was the trial prosecutor in *People v. Kogut* (1986) and *People v. Restivo* and *Halstead* (1986). Mr. Klein is expected to testify regarding his prosecutions of these actions, subsequent post-conviction proceedings involving John Kogut, Dennis Halstead and John Restivo and patterns and practices of the Nassau County District Attorney's Office during his career as a NCDA. Mr. Klein previously testified in *Kogut v. Cty. of Nassau* (2012).

Kimberly Beyer Kruse
1111 West Summit Place
Chandler, Arizona 85224

Mrs. Kruse is expected to testify regarding visiting Mr. Halstead's apartment when she was a teen-age girl and what occurred in those visits to his apartment.

Plaintiffs object to Mrs. Kruse's testimony as irrelevant under FRE 401 – 402, and as more prejudicial than probative, a waste of time, and confusion of the issues under FRE 403; the fact that teenage girls visited Mr. Halstead's apartment is not in dispute.

Honorable Edward McCarty
Nassau County Supreme Court

100 Supreme Court Drive
Mineola, NY 11501

Hon. Edward McCarty was the Nassau County Assistant District Attorney originally assigned subsequent to the arrests of John Kogut, John Restivo and Dennis Halstead and is expected to testify regarding the prosecutions against John Restivo, John Kogut and Dennis Halstead and the patterns and practices of the Nassau County District Attorney's Office during 1985.

Concetta Napoli
6 Windsor Pl.
Lynbrook, NY 11563

Concetta Napoli is the mother of Theresa Fusco and is expected to testify regarding her daughter's behavior in 1984, her daughter's clothing and jewelry and her daughter's plans for the weekend of November 10, 1984. Ms. Napoli previously testified in *People v. Restivo* (1986), in *People v. Kogut* (1986), in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012).

Regina Fuhrmann Nezmoudeen
2811 Riverside Drive
Wantagh, NY 11793

Mrs. Nezmoudeen is expected to testify regarding visiting Mr. Halstead's apartment when she was a teen-age girl and what occurred in those visits to his apartment.

Plaintiffs object to Mrs. Nezmoudeen's testimony as irrelevant under FRE 401 – 402, and more prejudicial than probative under FRE 403; the fact that teenage girls visited Mr. Halstead's apartment is not in dispute. In addition, Plaintiffs object that Ms. Nezmoudeen's testimony is irrelevant to probable cause. *See* D.E. 132.

Lieutenant John Overs
Lynbrook Police Department
1 Columbus Drive
Lynbrook, NY 11563

Lieutenant John Overs was a sergeant in the Lynbrook police department in 1984 and is expected to testify regarding his response to the call informing the Lynbrook police of the discovery of Theresa Fusco's corpse. Lt. Overs previously testified in *People v. Restivo* (1986), in *People v. Kogut* (1986), in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012).

James Pearson
Address Unknown

James Pearson was the boyfriend of Debra Smith in 1984 and 1985 and is expected to testify regarding Ms. Smith's statements to Nassau County police detectives.

Plaintiffs object to Mr. Pearson's testimony on the grounds of relevance, FRE 401 – 402, and that given its lack of probative value, as a waste of time, confusion of the issues, and more prejudicial than probative, under FRE 403.

Honorable George R. Peck

Nassau County Court
262 Old Country Road
Mineola, NY 11501

Judge Peck was a Nassau County Assistant District Attorney in 1985 and is expected to testify regarding John Kogut's videotaped confession on March 26, 1985. Judge Peck testified in *People v. Kogut* (1986), in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012).

Plaintiffs object that Judge Peck's testimony is irrelevant, under FRE 401 – 402, and would cause undue delay, confusion of the issues, waste of time, and undue prejudice, as it relates only to the Kogut confession.

John Restivo

John Restivo is a plaintiff in this action and is expected to testify as to liability and damages.

Cheryl Schneider

6327 Critten Road
Hornell, NY 14843

Cheryl Schneider is the sister of Donna Schneider, Charles Restivo's girlfriend in 1985-1986. Ms. Schneider was also an associate of the plaintiffs and lived in John Restivo's blue Ford Econoline van while she was homeless. Ms. Schneider is likely to have discoverable information regarding Dennis Halstead threatening her for sexual relations, John Kogut forcibly engaging in sexual contact with her and drug use by the plaintiffs, all before their incarcerations. Ms. Schneider testified at the grand jury investigation of the Theresa Fusco homicide

Plaintiffs object to Ms. Schneider's testimony on the grounds of relevance, FRE 401 – 402, and that given its lack of probative value, as a waste of time, confusion of the issues, and more prejudicial than probative, under FRE 403; and as inadmissible character evidence under FRE 404

Detective Jack Sharkey

Detective Sharkey is a named defendant and is expected to testify regarding the investigation of the Theresa Fusco homicide and the patterns and practices of the Nassau County Police Department in 1985. Detective Sharkey previously testified in *Kogut v. Cty. of Nassau* (2012).

Detective Frank Sirianni (by deposition designation-unable to travel)

Detective Sirianni is a named defendant and is expected to testify regarding the investigation of the Theresa Fusco homicide and the patterns and practices of the Nassau County Police Department in 1985. Det. Sirianni previously testified in *People v. Kogut* (1986), in *People v. Kogut* (2005) and in *Kogut v. Cty. of Nassau* (2012) (by deposition testimony).

Plaintiffs object to the Sirianni designations; see below.

Debra Smith

1485 Front Street, #33
East Meadow, NY 11554

Ms. Smith is expected to testify regarding the vehicle she viewed near the Lynbrook train station and her subsequent interactions with the Nassau County Police Department.

Plaintiffs object to Ms. Smith's testimony on the grounds of relevance, FRE 401 – 402, and that given its lack of probative value, as a waste of time, confusion of the issues, and more prejudicial than probative, under FRE 403.

Harold Smyle

460 Salisbury Park Drive
Building 1, Apt 1K
Westbury, NY 11590

Mr. Smyle is expected to testify regarding admissions made by John Restivo regarding the homicide of Theresa Fusco and his interactions with the Nassau County Police Department. Mr. Smyle previously testified in the grand jury investigation of the homicide of Theresa Fusco, in *People v. Restivo* (1986) and in *Kogut v. Cty. of Nassau* (2012).

Detective Lieutenant Shaun Spillane

Detective Lieutenant Spillane is a named defendant and is expected to testify regarding the investigation of the Theresa Fusco homicide and the patterns and practices of the Nassau County Police Department in 1985. Detective Lieutenant Spillane previously testified in *Kogut v. Cty. of Nassau* (2012).

Eileen Tosner

Address Unknown

Eileen Tosner was a friend of Theresa Fusco's and is likely to have discoverable information regarding a conversation she had with Harold Smyle on January 20, 1985 regarding the Theresa Fusco homicide.

Andrew Tursi

21 Park Place

Lynbrook, NY 11563

Andrew Tursi is expected to testify regarding his discovery of the corpse of Theresa Fusco on December 5, 1984. Mr. Tursi previously testified in *People v. Restivo* (1986) and in *People v. Kogut* (1986).

Detective Joseph Volpe (by deposition designation-deceased)

Detective Volpe is a named defendant and was the lead detective assigned to the Theresa Fusco homicide. Det. Volpe previously testified in the grand jury investigation of the Theresa Fusco homicide, in *People v. Kogut* (1986), in *People v. Kogut* (2005), and in *Kogut v. Cty. of Nassau* (2012) (by deposition testimony).

Plaintiffs object to specific designations; see below.

Detective Harry Waltman

Detective Waltman is expected to testify regarding the investigation of the Theresa Fusco homicide and the patterns and practices of the Nassau County Police Department in 1984-1986. Det. Waltman testified in *People v. Restivo* (1986), *People v. Kogut* (1986) and *People v. Kogut* (2005).

Detective Michael Walsh

Detective Walsh is expected to testify regarding the investigation of the Theresa Fusco homicide patterns and practices of the Nassau County Police Department in 1984-1986. Detective Walsh previously testified in *Kogut v. Cty. of Nassau* (2012).

Dr. Cyril Wecht

1119 Penn Ave.
Suite 404
Pittsburgh, PA 15222

Dr. Wecht is a forensic pathologist, who will provide expert testimony on the issue of the post-mortem root banding and opine that post-mortem root banding cannot be testified about to a reasonable degree of scientific certainty. This witness is being offered in response to Plaintiffs' Motion to Modify Daubert on Root Banding Issue.

Plaintiffs object to Dr. Wecht's testimony. Defendants did not disclose Dr. Wecht as an expert as required by FRCP 37(c), and still have not disclosed any expert report of Dr. Wecht. *See* D.E. 143 at 7-9.

Peter Weinstein, Esq.

10 West Broadway
Apt. 3D
Long Beach, NY 11561

Peter Weinstein was the Chief of the Appeals Bureau of the Nassau County District Attorney's Office and is likely to have discoverable information regarding the post-conviction litigation of the plaintiffs.

9. Rule 32 Designations and Objections:

Deposition Designations for Plaintiffs:

Plaintiffs designate the following deposition testimony, subject to redaction pending rulings on *in limine* motions and objections, and in conformity with the Court's prior rulings excluding reference to Kelly Morrissey and to John Kogut's false confession. Plaintiffs reserve the right to propose line by line objections to Defendants' cross-designations after the Court issues rulings on the motions *in limine*.

Frank Meyers deposition (videotaped, deceased):

Direct: 7:1-33:2

Cross: 42:21-44:21, 52:12-15, 64:18-65:17

Cross-Designation: 33:3-70:23

David Rapp deposition (Resides in Missouri):

Direct: 4:5-16, 4:24-11:3, 11:8-23:19, 24:10-26:21, 27:9-31:6, 31:16-32:4, 32:17-34:19, 35:13-41:22

Defendants object to the designation of deposition testimony of David Rapp based on the prior ruling of the Court at pages 2200-2201 of the trial transcript. However, if the Court allows the designation of deposition testimony of David Rapp, Defendants cross-designate the following:

Direct: 4:12-16, 4:24-11:3, 11:7-41:22

Cross: 42:7-52:9, 52:21,25-60:7, 61:22-70:4, 78:23-122:10, 124:5-138:20, 139:23-141:19, 142:1-144:24, 167:0-210:9.

Defendant Joseph Volpe (deceased):

Defendants reserve their right to make objections to deposition designations of Joseph Volpe until after the Court makes rulings on motions in limine.

1st dep. Videotaped (1/26/09): 25:16-29:10, 31:18-32:4, 34:10-17, 36:18-25, 42:13-16, 43:18-44:2, 49:24-50:9, 53:2-6, 54:3-5, 71:5-72:3, 73:3-20, 75:20-76:5.

2nd dep. Videotaped (3/5/09): 91:14–20, 94:3–12, 108:16–24, 109:19–110:6, 134:20–135:8, 157:5–158:3.

3rd dep. Videotaped (3/18/09): 168:15–170:4, 170:8–172:11, 176:15–177:4, 179:4–24, 181:12–16, 184:3–9, 199:19–200:12, 201:5–205:2, 207:2–208:16, 208:25–209:11, 212:23–218:18, 219:7–221:24, 223:7–225:25.

4th dep. Videotaped (4/6/09): 236:13–237:25, 240:17–241:20, 241:24–242:14, 242:21–243:2, 244:2–250:22, 251:17–252:8, 252:17–253:11, 281:23–282:9, 283:6–286:4, 287:2–25, 288:16–289:8, 296:24–297:17, 299:4–8, 299:17–21, 303:18–305:6, 306:7–13.

5th dep. Videotaped (5/4/09): 332:13–25, 347:7–14, 354:20–355:5, 355:19–356:20, 359:7–24, 361:12–22, 364:4–9, 365:17–366:4, 366:13–25, 377:16–22, 380:11–392:16.

6th dep. Videotaped (11/24/09): 472:8–22, 441:4–9, 441:22–442:12.

7th dep. Videotaped (12/2/09): 13:3–9, 13:20–14:16, 18:22–19:13, 20:12–21:2, 24:11–25, 25:15–27:14, 29:7–31:16, 37:8–12, 38:8–23, 45:22–46:19, 51:18–52:11, 64:9–65:13, 94:16–95:2, 96:12–98:3, 100:21–101:24, 110:19–111:6.

8th dep. Videotaped (11/19/10): 146:20–147:2, 150:9–20, 154:17–155:8, 155:25–156:6, 161:6–18, 163:4–10, 252:6–254:9, 272:2–275:25, 276:2–6.

Defendant Frank Sirianni (out of state, medical condition prevents travel):

Defendants reserve their right to make objections to deposition designations of Frank Sirianni until after the Court makes rulings on motions in limine.

1st dep. Videotaped (6/15/10): 12:14–18, 13:9–14:16, 15:24–17:4, 20:17–21:25, 22:10–23:22, 24:18–25:2, 28:15–29:18, 30:18–31:11, 33:17–34:15, 38:10–17, 41:22–42:11, 44:2–47:20, 48:1–9, 49:20–53:15, 54:15–56:11, 58:18–59:11, 61:16–62:22, 63:16–64:19, 65:2–22, 65:23–74:4, 75:12–25*, 80:23–81:4, 86:24–88:3, 89:23–90:21*, 91:15–92:3*, 92:6–93:5, 107:25–108:24, 111:3–115:9, 117:25–119:16, 120:4–121:7, 122:18–123:8, 174:24–175:9.

2nd dep. Videotaped (12/13-14/11): 301:5–16, 401:15–24, 403:7–10, 403:23–404:20, 408:7–410:5, 411:2–421:18, 429:20–431:3, 432:16–434:24, 438:10–439:2, 473:6–21.

*Segments to be redacted to conform to the Court's ruling on the exclusion of reference to Kelly Morrissey and subject to the Court's rulings on Plaintiffs' Motion *in Limine*.

Deposition Designations for Defendants:

Defendants designate the following deposition testimony, subject to pending rulings on *in limine* motions and objections. For example, should the Court rule that all deposition testimony regarding the Kogut confession is inadmissible, these designation will be amended consistent with the Court's ruling.

Defendant Frank Sirriani depositions (videotaped, out of state, medical condition prevents travel):

Cornwall: 12:14-17:2; 19:4-165: 1; 390: 15- 439:9; 439:19-442:24

Grandinette 165: 4- 267: 2;

Freeman: 277: 19-382:18; 476:12-482:11

Casteleiro: 443:6-476: 3

Plaintiffs renew all objections raised during this deposition, as stated on the record during the deposition. Additionally, plaintiffs object to all hearsay, and discussion of all matters previously objected to in our motions in limine, including but not limited to evidence of the Kogut confession, Restivo statement, polygraph examinations, prior bad acts by plaintiffs or their witnesses, and the disappearance of Kelly Morrissey. Proposed designations regarding such material include but are not limited to 306:7-308:12 (polygraph of Harry Smyle); 316:6-11 (Kelly Morrissey); 323:13-25(Kelly Morrissey); 326:8-30:3 (polygraph); 348:19-49:23 (hearsay (Joann told something to Linda Smyle, who told to police; prior bad acts (John with guns); 374:1-4 (polygraph);478:9-80:12 (hearsay).

Plaintiffs reserve the right to propose line by line objections to Defendants' designations after the Court issues rulings on the motions *in limine*.

Defendant Joseph Volpe (videotaped, deceased):

1st dep. Videotaped (1/26/09):

Grandinette: 10: 2-79:20

2nd dep. (3/5/09):

Grandinette: 89:8-158:3

3rd dep. Videotaped (3/18/09):

Scheck: 167:21-225:16

4th dep. Videotaped (4/6/09):

Scheck: 236: 13-308:6

5th dep. Videotaped (5/4/09):

Grandinette: 317:23-394:18

6th dep. (11/24/09):

Cornwall: 413:13-487:16

7th dep. Videotaped (12/2/09):

Grandinette: 6:16-7:22; 8:1; 9:5-53:10, 14-25; 55:8-135:20

8th dep. Videotaped (11/19/10):

Grandinette: 146:3-266:4

Freeman: 266: 13-276:6

Plaintiffs renew all objections raised during this deposition, as stated on the record during the deposition. Additionally, plaintiffs object to all hearsay, and discussion of all matters previously objected to in our motions in limine, including but not limited to evidence of the Kogut confession, Restivo statement, polygraph examinations, bad acts by plaintiffs or their witnesses, and the disappearance Kelly Morrissey. Proposed designations regarding such material include but are not limited to 275:6-14 (hearsay, being offered for truth of matter asserted).

Plaintiffs reserve the right to propose line by line objections to Defendants' designations after the Court issues rulings on the motions *in limine*.

10. Exhibits and Objections:

Please note, by agreement, the parties have only listed exhibits to be used in the liability phase of this trial, reserving the designation of damages exhibits to a later date.

Plaintiffs' Exhibits:*

**Denotes exhibits to be redacted or cut consistent with rulings on Plaintiffs' in limine motions and stipulations; Plaintiffs do not waive objections to any exhibits on this list and reserve the right to offer any exhibit listed on Defendants' exhibit list. Exhibits in strikeout indicate documents identified as deposition exhibits but not offered as trial exhibits.*

Plaintiffs reserve the right to identify rebuttal and/or impeachment exhibits.

Plaintiffs request that Defendants make all original exhibits and physical evidence from the underlying criminal trials, and police documents, in their possession available for use at trial.

As previously discussed with plaintiffs' counsel, hair evidence must be requested in advance from the Nassau County Police Department.

Defendants object to the admission of all trial testimony from John Kogut's criminal trials in 1986 and 2005.

Plaintiffs may not insert additional exhibits as exhibit numbers marked "intentionally blank."

Defendants make the following objections based on the witness list provided by Plaintiffs and may amend any objection or stipulation if a witness does not testify. Defendants also reserve the right to amend any objection or stipulation based on *in limine* rulings by the Court.

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
1	Fraas Report	X			
2	3/26/1985 Blotter	X			
3	Fraas transcript, 1986 Restivo/Halstead criminal trial		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
4	Fraas transcript, 2005 Kogut criminal retrial		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
5	Fraas transcript, 1986 Kogut criminal trial		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
6	Fraas Employee Work Record	X			
7	Binder of Diehl documents	X			
8-9	[INTENTIONALLY BLANK]				
10	Allen interview: Connie Napoli	X			
11	Dennis Halstead Lead Sheet	X			
12	[INTENTIONALLY BLANK]				
13	5/4/85 Statement: David Rapp, by Volpe/Allen		FRE 802; FRE 402		
14	4/19/85 Statement: Kenneth Cockerel	X			
14A	4/19/85 Statement: Kenneth Cockerel	X			
15	4/19/85 Form 79: Kenneth Cockerel	X			
16	1985 Restivo/Halstead Grand Jury Testimony: Thomas Allen	X			
17	[INTENTIONALLY BLANK]				
18	NCPD General Guidelines for Taking Statements (NCPD000149-153)		FRE 802; FRE 402		
19-28	[INTENTIONALLY BLANK]				
29	Crime Scene Roll Call	X			
30	Lead Sheet: Donna Irving		FRE 402		
31	Statement: Carl Pozzini		FRE 402; FRE 802		
32	[INTENTIONALLY BLANK]				
33	Interview: Paul Lampasona		FRE 402; FRE 802		
34	Lead Sheet: Brian Skellington		FRE 402; FRE 802		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
35-43	[INTENTIONALLY BLANK]				
44	Overs, Tursi, & Baez statements (Kogut 2005 Retrial Rosario #43, #36, #41)	X			
45	Crime Scene Photograph	Stipulate if identified by crime scene photo number			
46	missing person's report 11/11/84 filed by Connie Napoli	X			
47	Volpe DD report 11/25/94 [formerly 45A]		FRE 402		
48	map of Lynbrook	X			
49	crime scene photo log and all photographs identified (JK '86 Trial Exs. 49-1 to 49-129) 49-11 (Overs 9/20) 49-39 jean jacket frt (LK 9/27) 49-40 jean jacket back (9/27) 49-123 (CN 9/25) 49-126 (CN 9/25) 49-128 (CN 9/25) half heart	Stipulate if identified by crime scene photo number	Object to photo log as this exhibit does not display the full pages of the crime scene photo log		
50	photos - examples of property recovered		Object as these photos are a collage of crime scene photos taken at different locations at different times. The crime scene photos should be used.		
51	photos of Theresa Fusco at crime scene (3 pages)		Object as these photos are a collage of crime scene photos taken at different locations at different times. The crime scene photos should be used.		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
52	SIB receipts, property from crime scene (3 pages 12/6/84, #1, 2 & 4)	X			
53	[INTENTIONALLY BLANK]				
54	12/5/84 Fusco death report by Dr. Green	X			
55	Fusco SIB receipt: blood & hair	X			
56	autopsy report (NC017513-NC017525)	X			
57	[INTENTIONALLY BLANK]				
58	interview notes Lisa Kaplan, typed by Volpe, lead sheets, Alger/Sharkey interview notes (Kogut 2005 retrial Rosario #14, 11, 12, 10, 13)	X			
59& 59A	12/7/84 Teletype alarm sheets re Fusco jewelry, clothes	X			
60	typed notes of Concetta Napoli interview (typed vsn of PX10)	X			
61	[INTENTIONALLY BLANK]				
62	[INTENTIONALLY BLANK]				
63-66	[INTENTIONALLY BLANK]				
67	Farrell supervision course certificate		FRE 402		
68	12/4/01 OCME DNA report		FRE 402; See D.E. 135		
69	Vacatur stipulation		FRE 402		
70	Peter Weinstein Affirmation		FRE 402; FRE 802		
71	12/29/05 Restivo/Halstead Dismissal Hearing transcript		FRE 402		
72	[INTENTIONALLY BLANK]				
73	Reinvestigation supplement report (O'Leary/Kuhn)		FRE 402		
74	[INTENTIONALLY BLANK]				
75	NCPD list of DNA exclusions		FRE 402; See D.E. 135		
76	Kuhn Inmate informant letter		FRE 402		
77	Carl Macedonio documents		FRE 402		
78-82	[INTENTIONALLY BLANK]				
83*	4/13/05 press releases by NCPD, NCDA re videotaping		FRE 402		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
	interrogations				
84*	1/16/09 Newsday report: NCPD to videotape homicide & serious robbery interrogations		FRE 402		
85	[INTENTIONALLY BLANK]				
86	3/15/1985 Form 79: Michael Cockerel	X			
87	Kuhn Fax with Michael Connaughton notes	X			
88	[INTENTIONALLY BLANK]				
89	Vacatur Order		FRE 402; FRE 802		
90	[INTENTIONALLY BLANK]				
91	Lisa Cagan, 5/1/1985	X			
92	Steve Cagan, 5/1/1985	X			
93	Arden Statement, 11/22/85	X			
94-95	[INTENTIONALLY BLANK]				
96	4/2/1986 Handwritten Statement: Steven Dorfman		FRE 402		
97	4/2/1986 Typed Statement: Steven Dorfman		FRE 402		
98	6/25/1986 Statement: Steven Dorfman		FRE 402		
99	Steven Dorfman, Buckholz Transcript		Defendants do not have a copy of Plaintiffs' Exhibit 99		
100	7/7/1986 Steven Dorfman plea minutes		FRE 402		
101	2/27/1987 Fred Klein Letter re: Steven Dorfman		FRE 402		
102-104	[INTENTIONALLY BLANK]				
105	Birdsall Training Record		FRE 402		
106	Birdsall Transcript, 2005 Kogut Retrial		FRE 402		
107	McCarthy Autopsy Report, 12/6/84	X			
108	Birdsall Report, 12/6/84	X			
109	Birdsall transcript, 1986 Restivo/Halstead criminal trial		Object as witness is testifying; Stipulate as to relevant portions for impeachment		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
110	Van Photos	Stipulate if identified by crime scene photo number			
111	Search Warrant for Van, Order, Affidavit with Exhibit [to be redacted consistent with the Court's ruling]	Stipulate to exhibit but not to redaction			
112	3/26/86 Crime Scene Search Unit Receipt		Object as this is not the complete document		
113	Spillane Training Record		FRE 402		
114*	Restivo/Halstead Article 78 Petition Affirmation		FRE 402		
115*	3/28/85 Rozzi Letter to Ted Robinson		FRE 402		
116*	2/13/86 Ted Robinson Letter to Sean Spillane		FRE 402		
117-128	[INTENTIONALLY BLANK]				
129	Robert Dempsey's Training Record		FRE 402		
130*	3/6/85 at 0350 hours: John Restivo Form 79	X			
131*	3/5/85 Dempsey's Notes	X			
132*	3/6/85 Sharkey's Notes	X			
133*	3/6/85 at 1420 hrs: Form 79 for John Restivo	X			
134*	Homicide Bureau Blotter 1985 Entries 3/5, 3/6, 3/25, 3/26	X			
135*	NCPD General Order - Notification of Rights, 2/15/84		FRE 402		
136*	3/6/85 handwritten statement signed by Restivo	X			
137	Waltman 12/6/84 Report	X			
138	Hair Invoice, 3/2/87		FRE 402		
139	Article "Detective Told to Tighten Belts"		FRE 402		
140	NPCD Blotter entries 1986:		FRE 402		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
	Island Inn (NC019460, NC019464)				
141	Waltman Notes re: B. O'Hanlon, 9/12/85 (NC026882-NC026886)		FRE 802		
142	9/12/1985 Lane Notes re: Brian O'Hanlon		FRE 802		
143	9/12/1985 Statement: Brian O'Hanlon, by Waltman		FRE 802		
144	9/12/1985 Typed Statement: Brian O'Hanlon		FRE 802		
145*	Sharkey Training Record		FRE 402		
146*	Sharkey Notes	X			
147	[INTENTIONALLY BLANK]				
148	Missing Persons Supplementary Report, Last Page, Notification to Mother	X			
149	[INTENTIONALLY BLANK]				
150	Robert Martini Interview Notes		FRE 402		
151	[INTENTIONALLY BLANK]				
152	Aerial Photo: Kogut 1986 criminal trial Ex. 37		FRE 402		
153	Photo: Hot Skates - Kogut 1986 criminal trial Ex. 74		FRE 402		
154	mounted autopsy photo of ligature marks		FRE 403 ("Nylon rope/cord"); Photo is not clear; better photo of same image available; Crime scene number not indicated		
155	mounted photo - body under pallets		Photo is not clear; better photo of same image available; Crime scene number not indicated		
156	[INTENTIONALLY BLANK]				
157	3/29/85 Eavesdropping Warrant & Affidavits (only excerpts: 4:04 pm and ¶ 10)		FRE 804		
158	12/9/84 Debbie Smith Lead Sheet	X			
159	12/9/84 Debbie Smith Statement	X			
160	12/11/84 Debbie Smith--	x			

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
	Mitchell Notes				
161	12/6/84 John French–Sirianni Notes	X			
162	John French Loss from Car Notes	X			
163	John French Statement	X			
164	List of people who were in French's car	X			
165	LFU Vehicle Processing Worksheet & related documents	X			
166	French Stolen & Recovered Car Reports	X			
167	Crime Scene Search Unit Photo Log: French Car & scene		Object as this exhibit does not display the complete pages of the crime scene photo log		
168	Theresa Fusco Missing Poster	X			
169 a-j	Photos of John French car	Stipulate if identified by crime scene photo number			
170	Map, with French/Smith details		Defendants do not have exhibit		
170 A	Map, [marks by and about Debbie Smith redacted]	X			
171	J. Volpe Handwritten Notes		Only one page of document		
172	Large map with Google directions		Defendants do not have exhibit		
173-174	[INTENTIONALLY BLANK]				
175*	Volpe Notes of Restivo interrogation	X			
176*	Volpe Notes of Restivo interrogation: 2350, 3/5/85	X			
177*	Typed version of statement Restivo signed	X			
178*	Volpe Affidavit for Eavesdropping Warrant	X			

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
	Application[to be redacted depending on Court's ruling on MIL to exclude Restivo statement]				
179	Det. Mitchell's Interview of Thomas Gilhooley	X			
180	Lead Sheet of Joan Lenahan		FRE 402		
181	Joan Lenahan Trial Testimony		FRE 402		
182	Excerpt Connie Napoli's Testimony, 1986 Kogut criminal trial		FRE 402		
183	Photograph of jean jacket	Stipulate if identified by crime scene photo number			
184	Spillane Commendation Letter, 11/27/85		FRE 402		
185	Retyped Version of PX184, Spillane Commendation Letter		FRE 402		
186	Newsday 12/26/86, "Homicide Squad Chief Being Shifted"		FRE 402		
187-188	[INTENTIONALLY BLANK]				
189	Tosner 1/22/85 Lead Sheet	X			
190	Smyle Lead Sheet 3/5/85	X			
191	3/5/85 Perrino handwritten notes: Harold Smyle	X			
192	3/5/85 Harold Smyle Form 79	X			
193	3/5/85 Typed Smyle Notes	X			
194	Strangled Rumor Lead Sheets		FRE 402		
195	3/7/85 Harold Smyle Statement by Sirianni	X			
196	[INTENTIONALLY BLANK]				
197	Harold Smyle 1985 Restivo/Halstead Grand Jury transcript 1985	X			
198	3/27/85 Handwritten Smyle Statement	X			
199	3/27/85 Typed Smyle Statement	X			

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
200	3/15/85 Perrino Michael Cockerel Statement	X			
201	3/15/85 Perrino Michael Cockerel Notes	X			
202	3/15/85 Form 79 Michael Cockerel	X			
203	4/2/85 Michael Cockerel Interview Notes	X			
204	[INTENTIONALLY BLANK]				
205	4/2/85 Handwritten Statement: Michael Cockerel	X			
206	4/2/85 Typed Statement: Michael Cockerel	X			
207	4/2/85 Form 79: Michael Cockerel	X			
208	6/10/85 Statement: Kenneth Cockeral	X			
209	4/19/85 Statement: Kenneth Cockeral	X			
210	Kenneth Cockeral Restivo/Halstead Grand Jury transcript June 10, 1985	X			
211	Michael Cockeral Restivo/Halstead Grand Jury transcript June 17, 1985	X			
212	Subpoena for David Rapp from NSB		FRE 402		
213	2003 Affidavit of David Rapp		FRE 402		
214	Statement of Carl Pozzini		FRE 802		
215	Carl Pozzini transcript: 1986 Restivo/Halstead Criminal Trial		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
216	June 10, 1985 Restivo/Halstead Grand Jury Testimony of Carl Pozzini		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
217	Photo of Volpe at 3/5/09 Deposition		FRE 402		
218	May 3, 1985 Blotter		FRE 402		
219	[INTENTIONALLY BLANK]				

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
220	May 4, 1985 Statement of David Rapp		FRE 402		
221 A	David Rapp Form 79		FRE 402		
222	Photograph of Restivo van	Stipulate if identified by crime scene photo number			
223	Photograph of Restivo van	Stipulate if identified by crime scene photo number			
224	Photograph of Restivo van	Stipulate if identified by crime scene photo number			
225	Photograph of Restivo van	Stipulate if identified by crime scene photo number			
226	[INTENTIONALLY BLANK]				
227	Brian O'Hanlon 1986 Restivo / Halstead Criminal Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
227 A*	Robert Moore conspiracy book		FRE 402; FRE 403		
228	Brian O'Hanlon Statement		FRE 402		
229	[INTENTIONALLY BLANK]				

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
230	Vincent Crawford letter to Dillon		FRE 402		
231	Document from Steven Dorfman's Case File		FRE 402; FRE 802		
232	Typed Version of Kenneth Cockerel's Statement	X			
233	Kenneth Cockerel 5/16/85 Statement to Rick Arden	X			
234	Kenneth Cockerel's 1 st Restivo/Halstead Grand Jury Testimony (B03494-538)	X			
235	Kenneth Cockerel's 2 nd Restivo/Halstead Grand Jury Testimony	X			
236	Progress Report signed by ADA McCarty dated 04/19/85	X			
237	Progress Report signed by ADA McCarty dated 04/17/85	X			
238	[INTENTIONALLY BLANK]				
239	Murder Book table of contents		FRE 402; FRE 403		
240	Index of Homicide File Boxes		FRE 402		
241	Macedonio Package of Documents		FRE 402		
242	Excerpt from Macedonio Brief		FRE 402		
243*	Shonnard Lee Binder		FRE 402; FRE 403		
243 A*	False Confessions in Nassau County article		FRE 402; FRE 403		
244	Timeline		FRE 402		
245	Restivo appeal, Respondent's brief		FRE 402		
246	Harry Smyle Testimony, 1986 Restivo /Halstead Criminal		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
247	3/15/95 Weinstein/ Whitney Memo to DA Dillon (redacted for Kogut confession)		FRE 402		
248	O'Leary notebook		FRE 402		
249	6/29/04 D. Rapp arrest report		FRE 402		
250*	Statement of Anibal Martinez		FRE 402; FRE 403		
251*	Various: Jarreu Carter Statements, Articles, Transcript		FRE 402; FRE 403		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
252*	Trujillo depo excerpt, Martinez action		FRE 402; FRE 403		
253*	<i>Martinez v Nassau County</i> , Complaint		FRE 402; FRE 403		
254*	Martinez statement translated		FRE 402; FRE 403		
255	K. Cockerel "No Thank You" note, subpoena, check		FRE 402		
256	2/1/11 DLC letter to K. Cockerel re: returned subpoena		FRE 402		
257	"Learn the word no" letter		FRE 402		
258	[INTENTIONALLY BLANK]				
259	3/21/95 Volpe DNA consent from Matt Wilson		FRE 402		
260	12/7/95 Volpe letter to AUSA/EDNY re Roger Offner cooperation		FRE 402		
261	6/3/97 SIB Receipt from Volpe		FRE 402		
262	11/12/97 Memo to Volpe		FRE 402		
263	[INTENTIONALLY BLANK]				
264	Google earth map with marking: Hot Skates, Sunrise & Rocklyn		Map does not clearly display area.		
265	DMV-Plate# of John French car	X			
266	Lynbrook Police Blotter 11/10/84	X			
267	12/7/84 Newsday Article		FRE 402		
268	Crime scene photo – red/white/blue quilt	Stipulate if identified by crime scene photo number			
269	Crime scene photo – white blanket with border	Stipulate if identified by crime scene photo number			
270	Crime scene photo – white blanket	Stipulate if identified			

PLAINTIFFS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Description</u>	<u>Stipulated</u>	<u>Defense Objection</u>	<u>ID</u>	<u>Evid.</u>
		by crime scene photo number			
271-272	[INTENTIONALLY BLANK]				
273	Excerpt of Frank Sirianni 1986 Restivo/Halstead Criminal Trial Testimony (pp. 573-4, 587-8)		FRE 402		
274	Excerpt of Frank Sirianni's 2005 Kogut retrial testimony (pp. 1083-4, 1107-11)		FRE 402		
275	[INTENTIONALLY BLANK]				
276	4/2/84 Brian O'Hanlon Polygraph Examination Card		FRE 402		
277	[INTENTIONALLY BLANK]				
278	Declaration of Carl Pozzini with attachments		FRE 402		
279	NCME DNA Report 4/7/11 excluding Carl Pozzini		FRE 402		
280-290	[INTENTIONALLY BLANK]				
291	DR 7-103 (B)		FRE 402		
292	3/15/95 Fred Klein Inter-Departmental Memo (redacted for Kogut confession)		FRE 402		
293	Postconviction Timeline		FRE 402; FRE 403		
294	<i>Newsday</i> , "Nude Body of Teen Found", 12/7/84		FRE 402		
295	<i>NY Times</i> , "Missing Girl, 16, Found Strangled in LI Woods" (12/7/84)		FRE 402		
296*	Declaration of Theodore W. Robinson with exhibits		FRE 402; FRE 802		
297	[INTENTIONALLY BLANK]				
298	NCPD Teletypewriter alarm sheets 12/7/84 & 12/13/84	X			

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
299*	Excerpts from Shonnard Lee case		FRE 402		
300*	Shonnard Lee Article from Newsday "\$2M in faulty arrest"		FRE 402		
301*	Lee Homicide Book with 34 tabs [SUBMITTED SEPARATELY]		FRE 402		
302*	3/10/2000 Dempsey DD Report re Sammy Jones homicide		FRE 402		
303*	Crime Stoppers Flyer – Sammy Jones		FRE 402		
304*	2/24/97 Dempsey Statement of Henrietta Williams		FRE 402		
305*	2/4/03 Affidavit of Tajuan Crum		FRE 402		
306	Notice of 30(b)(6) Deposition		FRE 402		
307	NCPD Mission Statement		FRE 402		
308-310	[INTENTIONALLY BLANK]				
311	Preliminary death report, Taff/McCarthy	X			
312	Grand jury report		FRE 402; FRE 802		
313-314	[INTENTIONALLY BLANK]				
315	DNA Documents		FRE 402; FRE 403; See, D.E. 135		
316	[INTENTIONALLY BLANK]				
317	Hillman request for S. Newsome's Death Certificate		FRE 402		
318-351	[INTENTIONALLY BLANK]				
351	[INTENTIONALLY BLANK]				
352	Stipulated Restivo & Halstead Plaintiffs' Fourth Set of Requests to Admit		FRE 403; See, D.E. 135		
353	Expert report of Russell Fischer		FRE 402; FRE 403; See, D.E. 138		
354	Map of Lynbrook		Map does not clearly display area.		
355	12/8/84 NCPD Crime Scene Unit Scene Examination Report – photos and scene examination		Object as this exhibit does not display the complete page of the crime scene		

PLAINTIFFS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Description</u>	<u>Stipulated</u>	<u>Defense Objection</u>	<u>ID</u>	<u>Evid.</u>
	photo log		log; Photos are unclear; Photos are not identified by crime scene number		
356	[INTENTIONALLY BLANK]				
357	11/25/94 NCPD Supplementary Report of defendant Volpe		FRE 402		
358*	4/25/85 Affirmation of Theodore Robinson in Reply to Article 78 petition		FRE 402		
359	[INTENTIONALLY BLANK]				
360	7/13/10 declaration of Harold Smyle		FRE 402		
361	[INTENTIONALLY BLANK]				
362	Criminal Information and Indictment, <i>People v. Steven Dorfman</i> , Ind. No. 63090/86 (see DE 254-2)		FRE 402		
363	Brian O'Hanlon's New York State Division of Criminal Justice Services Repository Inquiry Record (see DE. 254-3)		FRE 402		
364	1/29/86 Nassau County Correctional Center ("NCCC") Administrative Segregation Report for Samuel Newsome (see DE 254-4)		FRE 402		
365	3/3/86 NCCC sign-in form for Samuel Newsome reflecting a visit by Det. Pizer		FRE 402		
366	handwritten notes by NCPD Det. Pizer regarding an interview with Samuel Newsome		FRE 402		
367	10/22/86 statement of Samuel Newsome, handwritten by defendant Connaughton		FRE 402		
368*	handwritten statement of Shonnard Lee		FRE 402; FRE 403		
369*	Al Baker, "Teen Held in Death," <i>Newsday</i> , 6/19/97		FRE 402; FRE 403		
370*	6/13/97 statement of Tajuan Crum		FRE 402; FRE 403		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
371*	Affidavit of Tajuan Crum, <i>Shonnard Lee v. Nassau County, et al.</i> , No. 00 Civ. 0881 (WDW)		FRE 402; FRE 403		
372*	Affidavit of Winona Hammonds, <i>Shonnard Lee v. Nassau County, et al.</i> , No. 00 Civ. 0881 (WDW)		FRE 402; FRE 403		
373*	Statement of Ragan Martin, <i>Shonnard Lee v. Nassau County, et al.</i> , No. 00 Civ. 0881 (WDW)		FRE 402; FRE 403		
374	[INTENTIONALLY BLANK]				
375*	Deposition of Shonnard Lee, <i>Shonnard Lee v. Nassau County, et al.</i> , No. 00 Civ. 0881 (WDW)		FRE 402; FRE 403		
376*	Handwritten statement of Robert Moore		FRE 402; FRE 403		
377*	Affidavit of Robert Moore, <i>Robert Moore v. Village of Hempstead, et. al. Nassau County</i> , 96 Civ. 5987		FRE 402; FRE 403		
378*	Deposition of Robert Moore, <i>Moore v. Village of Hempstead, et. al. Nassau County</i> , 96 Civ. 5987		FRE 402; FRE 403		
379*	Deposition of NCPD Det. Jerl Mullen, <i>Moore v. Village of Hempstead, et. al.</i> , 96 Civ. 5987		FRE 402; FRE 403		
380*	Deposition of Joseph Volpe, <i>Moore v. Village of Hempstead, et. al. No. 96 Civ. 5987</i>		FRE 402; FRE 403		
381	NCPD training class lists		FRE 402		
382	Defendants' Amended Response to Restivo & Halstead Plaintiffs' Seventh Set of Interrogatories		FRE 402; FRE 403; See, D.E. 149		
383	NCPD Comprehensive Officer Report-Volpe		FRE 402		
384	Excerpts of the 1986 trial in <i>People v. Restivo & Halstead</i> ,		FRE 402		

PLAINTIFFS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Description</u>	<u>Stipulated</u>	<u>Defense Objection</u>	<u>ID</u>	<u>Evid.</u>
	Ind. No. 61322-85 (see DE 257-0)				
385*	Robert Dempsey notes re Ted Robinson's 3/7/85 telephone complaint		FRE 402		
386*	Excerpts of the 2005 retrial, <i>People v. Kogut</i> , Ind. No. 61029/85 (see DE 258-1)		FRE 402		
387 A	CV OF DNA expert Charlotte Word		FRE 402; See, D.E. 135		
388*	Affidavit of Shonnard Lee, <i>Shonnard Lee v. Nassau County, et al.</i> , No. 00 Civ. 0881 (WDW)		FRE 402; FRE 403		
389*	Affidavit of Dorothy Lee, <i>Shonnard Lee v. Nassau County, et al.</i> , No. 00 Civ. 0881 (WDW)		FRE 402; FRE 403		
390*	Affidavit of Jeffrey Bourne, <i>Shonnard Lee v. Nassau County, et al.</i> , No. 00 Civ. 0881 (WDW)		FRE 402; FRE 403		
391*	Affidavit of Ragan Martin, <i>Shonnard Lee v. Nassau County, et al.</i> , No. 00 Civ. 0881 (WDW)		FRE 402; FRE 403		
392*	Comprehensive Officer History for defendant Dempsey		FRE 402; FRE 403		
393	SWGMAF Forensic Human Hair Comparison Guidelines (Hrg. Ex. 3)		FRE 402; FRE 403; See, D.E. 136		
394	SWGMAF Atlas Photos (Hrg. Ex. 4)		FRE 402; FRE 403; See, D.E. 136		
395	SWGMAF Atlas Photo – Putrid Root (Hrg. Ex. 5)		FRE 402; FRE 403; See, D.E. 136		
396	1984 Seta article (Hrg. Ex. 6)		FRE 402; FRE 403; See, D.E. 136		
397	1985 Symposium (Hrg. Ex. 7)		FRE 402; FRE 403; See, D.E. 136		
398	1988 Petraco, Fraas JFS Article (Hrg. Ex. 8)		FRE 402; FRE 403; See, D.E. 136		
399	2000 Tafaro JFS article (Hrg.		FRE 402; FRE 403; See,		

PLAINTIFFS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Description</u>	<u>Stipulated</u>	<u>Defense Objection</u>	<u>ID</u>	<u>Evid.</u>
	Ex. 9)		D.E. 136 FRE 402; FRE 403; See, D.E. 136		
400	2001 Lynch & Prahlow article (Hrg. Ex. 10)		FRE 402; FRE 403; See, D.E. 136		
401	2005 Jefferey gorilla article (Hrg. Ex. 11)		FRE 402; FRE 403; See, D.E. 136		
402	2012 Shaw Abstract (Hrg. Ex. 12)		FRE 402; FRE 403; See, D.E. 136		
403	Domzalski thesis (Hrg. Ex. 13)		FRE 402; FRE 403; See, D.E. 136		
404	Collier Thesis (Hrg. Ex. 14)		FRE 402; FRE 403; See, D.E. 136		
405	Petraco Rpt. & CV (Hrg. Ex. 15)		FRE 402; FRE 403; See, D.E. 136		
406	Petraco 2003 Affidavit (Hrg. Ex. 16)		FRE 402; FRE 403; See, D.E. 136		
407	Kogut Retrial Q8 Hair photo (KRT Ex. DL; Hrg. Ex. 17)		FRE 402; FRE 403; See, D.E. 136		
408	Kogut retrial Q8 hair photo (KRT Ex. DM; Hrg. Ex. 18)		FRE 402; FRE 403; See, D.E. 136		
409	Kogut retrial Q4 hair photo (KRT Ex. DN; Hrg. Ex. 19)		FRE 402; FRE 403; See, D.E. 136		
410	Kogut retrial debris hair photo (KRT Ex. 132, OOO; Hrg. Ex. 22)		FRE 402; FRE 403; See, D.E. 136		
410	Kogut retrial debris hair photo (KRT Ex. 131, MMM; Hrg. Ex. 23)		FRE 402; FRE 403; See, D.E. 136		
411a	Houck CV		FRE 402; FRE 403; See, D.E. 136		
412	Houck Powerpoint (Hrg. Ex. 2)		FRE 402; FRE 403; See, D.E. 136		
413	DeForest report & CV (Hrg. Ex. 25)		FRE 402; FRE 403; See, D.E. 136		
414	DeForest Powerpoint (Hrg. Ex. 26)		FRE 402; FRE 403; See, D.E. 136		
415	Photo of TF known hair (KRT Ex. DO; Hrg. Ex. 27)		FRE 402; FRE 403; See, D.E. 136		
416	Domzalski photo of hair buried in soil 6 days (Hrg. Ex. 28)		FRE 402; FRE 403; See, D.E. 136		
417	1/3/85 Baumann serology report	X			

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
418	11/22/93 Lifecodes DQAlpha report		D.E. 402; D.E. 403; See, D.E. 135		
419	11/29/94 CBR Labs DQ Alpha report		D.E. 402; D.E. 403; See, D.E. 135		
420	1/5/95 Cellmark DQ Alpha DNA report		D.E. 402; D.E. 403; See, D.E. 135		
421	3/20/01 Labcorp DNA report – male profile (Rosario 100)		D.E. 402; D.E. 403; See, D.E. 135		
422	6/7/01 Labcorp DNA report – TF profile (Rosario 98)		D.E. 402; D.E. 403; See, D.E. 135		
423	12/4/01 NY OCME DNA report (Rosario 98)		D.E. 402; D.E. 403; See, D.E. 135		
424	3/31/03 Cellmark DNA report (Rosario 98)		D.E. 402; D.E. 403; See, D.E. 135 D.E. 402; D.E. 403; See, D.E. 135		
425	7/7/03 Labcorp DNA report (Rosario 98)		D.E. 402; D.E. 403; See, D.E. 135		
426	Crime scene photograph	Stipulate if identified by crime scene photo number			
427	Crime scene photograph	Stipulate if identified by crime scene photo number			
428	Crime scene photograph	Stipulate if identified by crime scene photo number			
429	Crime scene photograph	Stipulate if identified by crime			

PLAINTIFFS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Description</u>	<u>Stipulated</u>	<u>Defense Objection</u>	<u>ID</u>	<u>Evid.</u>
		scene photo number			
430	Crime scene photograph	Stipulate if identified by crime scene photo number			
431	Crime scene photograph	Stipulate if identified by crime scene photo number			
432-433	[INTENTIONALLY BLANK]				
434	<i>Newsday</i> Photograph of Joseph Volpe (all <i>Newsday</i> photos disclosed 4/9/12)		FRE 402		
435	<i>Newsday</i> Photograph of John Restivo during 1986 trial		FRE 402		
436	<i>Newsday</i> Photograph of John Restivo postconviction		FRE 402		
437	<i>Newsday</i> Photograph of Dennis Halstead at 1986 trial		FRE 402		
438	<i>Newsday</i> Photograph of John Kogut upon arrest		FRE 402		
439	<i>Newsday</i> Photograph of John Restivo at release		FRE 402		
440	<i>Newsday</i> Photograph of Dennis Halstead before release		FRE 402		
441	<i>Newsday</i> Photograph of John Kogut before release		FRE 402		
442	[INTENTIONALLY BLANK]				
443	<i>Newsday</i> Photograph of 3 plaintiffs upon release		FRE 402		
444	<i>Newsday</i> Photograph of		FRE 402		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
	Halstead upon release with grown children				
445	<i>Newsday</i> Photo of Restivo & Halstead after release		FRE 402		
446	<i>Newsday</i> photo of 1986 trial		FRE 402		
447	<i>Newsday</i> photo of 1986 trial		FRE 402		
448	<i>Newsday</i> photo of 1986 trial		FRE 402		
448-453	[INTENTIONALLY BLANK]				
454	Collection of invoices and cancelled checks re payment to Ted Robinson		FRE 402		
455	Collection of invoices and cancelled checks re payment to Investigator Rick Arden		FRE 402		
456*	Robinson photos of Restivo injuries		FRE 402		
457-467	[INTENTIONALLY BLANK IN LIABILITY PHASE]				
468	Halstead – bail order		FRE 402		
469-471	[INTENTIONALLY BLANK IN LIABILITY PHASE]				
472	Halstead – NCDA letter re taking blood for DNA testing		D.E. 402; D.E. 403; See, D.E. 135		
473-474	[INTENTIONALLY BLANK IN LIABILITY PHASE]				
475	Restivo Sentencing & Commitment Order (JP0001-2)		FRE 402		
476	Halstead Sentencing & Commitment Order		FRE 402		
477	Order to Vacate Convictions		FRE 402		
478	Restivo bond order		FRE 402		
479-498	[INTENTIONALLY BLANK IN LIABILITY PHASE]				
499	Restivo sentencing statement		FRE 402		
500-670	[INTENTIONALLY BLANK IN LIABILITY PHASE]				

PLAINTIFFS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Description</u>	<u>Stipulated</u>	<u>Defense Objection</u>	<u>ID</u>	<u>Evid.</u>
671	Fraas Overtime records (NC036327-29)		FRE 402		
672*	Homicide blotters: selections from 12/5/84-1986	X			
673	SIB blotters: selections from 3/26/85-6/20/85	X			
674	[INTENTIONALLY BLANK IN LIABILITY PHASE]				
675	2/16/95 Michael Cockerel consent for Volpe to collect biological samples		FRE 403; FRE 403; See, D.E. 135		
676-683	[INTENTIONALLY BLANK]				
684	Summary of DNA Reports		FRE 403; FRE 403; See, D.E. 135		
685	Scientific Bureau Receipts for Cigarette Butts		FRE 403; FRE 403; See, D.E. 135		
686-688	[INTENTIONALLY BLANK]				
689	Chain of Custody Form		FRE 403; FRE 403; See, D.E. 135		
690	Handwritten notes on investigation by Volpe		FRE 402 (undated notes)		
691*	3/7/85 Ted Robinson notice of appearance for John Restivo		FRE 402		
693*	3/7/85 Ted Robinson notice of appearance for Dennis Halstead		FRE 402		
694*	Ted Robinson's letter to Police Commissioner Rozzi re: police harassment		FRE 402		
695*	Ted Robinson's letter to NCDA re: police harassment		FRE 402		
696*	Ted Robinson notes of meeting w/ John Restivo		FRE 402		
697-722	[INTENTIONALLY BLANK]				
723	Daily News, 12/07/85 "Blood Test to Identify Murderers & Rapists"		FRE 402		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
724	[INTENTIONALLY BLANK IN LIABILITY PHASE]				
725	Connie Napoli: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
726	Rochelle Bernstein: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
727	Thomas Gilhooley: Restivo/Halstead 1986 Trial Testimony		Plaintiffs have not proven unavailability under FRE 804		
728	Paul Rauch: Restivo/Halstead 1986 Trial Testimony		Plaintiffs have not proven unavailability under FRE 804		
729	Dr. Daniel McCarthy: Restivo/Halstead 1986 Trial Testimony		FRE 402		
730	Robert Baumann: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
731	Det. Thomas Allen: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
732	Leo Klein: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
733	Steven Dorfman: Restivo/Halstead 1986 Trial Testimony		FRE 402		
734	Cary O'Hanlon: Restivo/Halstead 1986 Trial Testimony		Plaintiffs have not proven unavailability under FRE 804		
735	Det. Harry Waltman: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
736	Det. Michael Connaughton:		Object as witness is		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
	Restivo/Halstead 1986 Trial Testimony		testifying; Stipulate as to relevant portions for impeachment		
737	P.O. William Diehl: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
738	Sam Newsome: Restivo/Halstead 1986 Trial Testimony		FRE 402		
739	Det. Richard Brusa: Restivo/Halstead 1986 Trial Testimony	X			
740	Det. Sgt. Robert Edwards: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
741	P.O. Edward Beahr: Restivo/Halstead 1986 Trial Testimony		Plaintiffs have not proven unavailability under FRE 804		
742	Maryann Rosino: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
743	Thomas DeCrescenzo: Restivo/Halstead 1986 Trial Testimony		Plaintiffs have not proven unavailability under FRE 804		
744	Anthony Walsh: Restivo/Halstead 1986 Trial Testimony		Plaintiffs have not proven unavailability under FRE 804		
745	Joann Nitti: Restivo/Halstead 1986 Trial Testimony (*subject to MIL objections)		Plaintiffs have not proven unavailability under FRE 804		
746	Leo Klein: Restivo/Halstead 1986 Trial Testimony		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
747	Carolann Davies: Restivo/Halstead 1986 Trial Testimony		Plaintiffs have not proven unavailability under FRE 804		
748	Arthur Fleishman: Restivo/Halstead 1986 Trial		Object as witness is testifying; Stipulate as to		

PLAINTIFFS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Description</u>	<u>Stipulated</u>	<u>Defense Objection</u>	<u>ID</u>	<u>Evid.</u>
	Testimony		relevant portions for impeachment		
749-753	[INTENTIONALLY BLANK IN LIABILITY PHASE]				
754-757	[INTENTIONALLY BLANK]				
758*	Affirmation of Theodore Robinson, Esq. submitted in support of John Restivo's 440.10 Motion to Vacate Conviction		FRE 402		
759	[INTENTIONALLY BLANK IN LIABILITY PHASE]				
760	7/30/01 James Dundon LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
761	7/25 2002 David Rapp DNA report		FRE 402; FRE 403; See, D.E. 135		
762	8/8/2002 LabCorp DNA report David Rapp		FRE 402; FRE 403; See, D.E. 135		
763	10/28/02 John Updigrove LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
764	[INTENTIONALLY BLANK]				
765	1/13/03 John Rapp LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
766	3/14/03 Charles Restivo Michael Bachman LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
767	5/5/03 David Shafer LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
768	6/13/03 Thomas McBride LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
769	7/7/03 Brian Skellington LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
770	7/10/03 Harold Smyle LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		

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<u>Ex #</u>	<u>Description</u>	<u>Stipulated</u>	<u>Defense Objection</u>	<u>ID</u>	<u>Evid.</u>
771	7/17/03 LabCorp DNA report: Benjamin Langdon, Chris Lamposona, David Skellington, J. Breen, John Fusco, Kenneth Cockerel, Paul Lamposona, Ronald Grab, T. Gilhooley		FRE 402; FRE 403; See, D.E. 135		
772	7/25/03 LabCorp DNA report re Glen Mielinis, John William Evely		FRE 402; FRE 403; See, D.E. 135		
773	7/28/03 John Glennon LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
774	8/4/03 John William Evely LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
775	8/5/03 LabCorp DNA report re Charles Burkhard, Phillip Caponi		FRE 402; FRE 403; See, D.E. 135		
776	8/14/03 Walter Rapp LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
777	8/21/03 LabCorp DNA report re John Nitti, Joseph Kronenberg		FRE 402; FRE 403; See, D.E. 135		
778	9/9/03 Ernest Breithaupt LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
779	9/15/03 Alex Sapounas LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
780	9/30/03 Scott Tiederman LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
781	10/14/03 LabCorp DNA report re Daniel Evely, John Nutini, Neil Multop, William Evely		FRE 402; FRE 403; See, D.E. 135		
782	10/27/03 LabCorp DNA reporter Hans Christian Anderson, Steve Evely		FRE 402; FRE 403; See, D.E. 135		
783	11/4/03 Charles Price LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
784	11/18/03 John Martini LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
785	12/17/03 Jasmani Perez NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
786	1/7/04 R.J. Springsteen LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		

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Ex #	Description	Stipulated	Defense Objection	ID	Evid.
787	1/15/04 Thomas Ryan, Jr. LabCorp DNA report		FRE 402; FRE 403; See, D.E. 135		
788	3/1/04 William Hynes NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
789	6/8/04 Patrick Griffin NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
790	6/21/04 Gerard Kuster NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
791	[INTENTIONALLY BLANK]		FRE 402; FRE 403; See, D.E. 135		
792	6/24/04 Thomas Fusco NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
793	8/24/04 Brian O'Hanlon NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
794	8/24/04 Peter Talierico NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
795	12/5/04 David Devine NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
796	12/5/04 Stephen Eichner NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
797	12/20/04 Charles Mohr, Jr. NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
798	1/3/05 Robert Mielinis NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
799	4/21/05 Salvatore Roseo NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
800	4/28/05 John Warner NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
801	6/7/05 Robert Martini NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
802	6/7/05 Stephen Trapani NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
803	9/16/05 Carmella Kaplan (excluded as mother of semen donor) NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
804	9/19/05 Caine Dominici NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
805	9/19/05 Robert Martini NCME DNA report		FRE 402; FRE 403; See, D.E. 135		

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Ex #	Description	Stipulated	Defense Objection	ID	Evid.
806	10/11/05 Michael Vogel NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
807	10/11/05 Raymond Pensabene NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
808	10/5/10 John Hemmy NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
809	12/7/10 George Duprey NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
810	12/28/10 Michael Cannino NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
811	12/28/10 Michael Cannino NYC OCME DNA report [duplicates 810]		FRE 402; FRE 403; See, D.E. 135		
812	1/6/11 Craig Bandini NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
813	2/2/11 Gregory McManus NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
814	2/2/11 Paul Bastian NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
815	2/7/11 Michael McCarthy NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
816	2/16/11 Elvin Campbell NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
817	2/16/11 Michael Cockerel NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
818	3/3/11 Michael Wren NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
819	3/22/11 Matthew Wilson NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
820	4/12/11 Stephen Eichner NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
821	4/14/11 Richard Skewes NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
822	5/6/11 Angelo Talierico NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
823	5/12/11 Keith Skellington NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
824	5/19/11 Gary Scherppple NCME		FRE 402; FRE 403; See,		

PLAINTIFFS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Description</u>	<u>Stipulated</u>	<u>Defense Objection</u>	<u>ID</u>	<u>Evid.</u>
	DNA report		D.E. 135		
825	5/20/11 Roger Ofner NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
826	5/20/11 Steven Toledo NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
827	6/7/11 Mathew Wilson NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
828	6/28/11 Daniel Ludecker NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
829	6/29/11 Art Freeland NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
830	6/30/11 Robert Baxter NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
831	7/18/11 Craig Neiderberger NYC OCME DNA report		FRE 402; FRE 403; See, D.E. 135		
832	8/2/11 Richard Moyles NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
833	8/22/11 Sean Galligan NCME DNA report		FRE 402; FRE 403; See, D.E. 135		
834	8/31/11 John Rallo NYC OCME DNA report		FRE 402; FRE 403; See, D.E. 135		
835	9/19/11 Steven Manchin NYC OCME DNA report		FRE 402; FRE 403; See, D.E. 135		
836	10/5/11 Scott Manchin NYC OCME DNA report		FRE 402; FRE 403; See, D.E. 135		
837	[INTENTIONALLY BLANK]				
838	R/H '86 trial Ex. 20: Large envelope w/ 4 small envelopes w/ hair samples [autopsy hairs]				
838a	Photos:	X			
838b	838a: All 5 TF K envelopes				
838c	838b: Front of lg. envelope				
838d	838c: Back of lg. envelope				
838e	838d: Front of sm. Envelopes				
839	838e: back of sm. Envelopes				
839	R/H '86 trial Ex. 21: Photo of area where TF jewelry found	X			

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
840	R/H '86 trial Ex. 23: tool rental contract		FRE 402		
841	R/H '86 trial Ex. 31: Form 350, contents taken from van		Defendants do not have exhibit		
842	R/H '86 trial Ex. 32: Q8 envelope with contents collected from van right front seat floor	X			
843	R/H '86 trial Ex. 37: Prez Tools blank receipt		FRE 402		
844	R/H '86 trial Ex. 40: Rental car receipt		Defendants do not have exhibit		
845	R/H '86 trial Ex. C: Photo of Hot Skates parking lot		Defendants do not have exhibit		
846	R/H '86 trial Ex. D: Photo of Hot Skates parking lot		Defendants do not have exhibit		
847	R/H '86 trial Ex. E: Photo of Hot Skates parking lot		Defendants do not have exhibit		
848	R/H '86 trial Ex. H: Photo of paved driveway alongside Noble Machinery (east)		FRE 402		
849	R/H '86 trial Ex. I: Photo of paved driveway alongside Noble Machinery (west)		FRE 402		
850	R/H '86 trial Ex. J: Autopsy report		Defendants do not have exhibit		
851	R/H '86 trial Ex. K: Serology report		Defendants do not have exhibit		
852	R/H '86 trial Ex. L: Photo of broken glass marked #4		FRE 402		
853	R/H '86 trial Ex. M: Photo of broken glass marked #4		FRE 402		
854	R/H '86 trial Ex. N: Photo of broken glass marked #4		Defendants do not have exhibit		
855	R/H '86 trial Ex. O: Van registration record	X			
856	R/H '86 trial Ex. P: Harold Smyle statement to Rick Arden	X			
857	R/H '86 trial Ex. T: Bill for rental of floor edger (in		FRE 402		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
	evidence as AAA)				
858	R/H '86 trial Ex. HH: diagram of growing hair		Defendants do not have exhibit		
859	R/H '86 trial Ex. II: hair diagram		Defendants do not have exhibit		
860	R/H '86 trial Ex. KK: Pergament register receipt		FRE 402		
861	R/H '86 trial Ex. LL: Receipt from E. Rockaway Paint & Hardware		Defendants do not have exhibit		
862	R/H '86 trial Ex. MM: Receipt, E. Rockaway Paint		FRE 402		
863	R/H '86 trial Ex. NN: Receipt, Prez Tool Rental		FRE 402		
864	R/H '86 trial Ex. OO: Receipt from Prez Tools – screwgun		FRE 402		
865	R/H '86 trial Ex. PP: Receipt from Prez Tools – screwgun		FRE 402		
866	R/H '86 trial Ex. QQ: Photographs of Restivo by Robinson		Defendants do not have exhibit		
867	R/H '86 trial Ex. RR: Photographs of Restivo by Robinson		Defendants do not have exhibit		
868	R/H '86 trial Ex. SS: Photographs of Restivo by Robinson		Defendants do not have exhibit		
869	R/H '86 trial Ex. TT: Photographs of Restivo by Robinson		Defendants do not have exhibit		
870	R/H '86 trial Ex. UU: copy of receipt for rug		FRE 402		
871	R/H '86 trial Ex. VV: Check for rug		FRE 402		
872	R/H '86 trial Ex. WW: Prez Tool Receipt		Defendants do not have exhibit		
873	R/H '86 trial Ex. XX: Prez Tool Receipt		Defendants do not have exhibit		
874	R/H '86 trial Ex. YY: Prez Tool Receipt		Defendants do not have exhibit		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
875	R/H '86 trial Ex. ZZ: Cockerel statement to Rick Arden	X			
876	R/H '86 trial Ex. AAA: Machine receipt – tool gun rental		FRE 402		
877	R/H '86 trial Ex. BBB: bills of lading, 11/13/84		FRE 402		
878	R/H '86 trial Ex. CCC: bills of lading, 11/13/84		FRE 402		
879	R/H '86 trial Ex. DDD: Contract		Defendants do not have exhibit		
880	R/H '86 trial Ex. EEE: hair slides		Defendants do not have exhibit		
881	R/H '86 trial Ex. OOO: hair slides		Defendants do not have exhibit		
882	R/H '86 trial Ex. SSS: car rental invoice		FRE 402		
883	R/H '86 trial Ex. TTT: Contract between Davies and Halstead		FRE 402		
884	R/H '86 trial Ex. UUU: Check: Davies to Halstead, 11/4/84		FRE 402		
885	R/H '86 trial Ex. VVV: E. Rockaway Raiders football schedule		FRE 402		
886	R/H '86 trial Ex. XXX: JFK Airport climatic record November/December 1984		FRE 402		
887	Transcript of Testimony of Det. Joseph Volpe before Restivo/Halstead Grand Jury		FRE 402		
888	Transcript of Testimony of Det. Thomas Allen before Restivo/Halstead Grand Jury		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
889	1984 Calendar (Plaintiffs' Deposition Exhibit 328)		FRE 402 (dates circled)		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
890	Google map (Plaintiffs' Deposition Exhibit 329)		Map does not clearly display area.		
891	Prez Tool Sander Receipt (11/10&11/84) (Plaintiffs' Deposition Exhibit 330)		FRE 402		
892	Move-Right invoice, dated 11/24/84, for Campbell (Plaintiffs' Deposition Ex. 331)		FRE 402		
893	5/17/85 Michael Cockerel Statement to Rick Arden (Plaintiffs' Deposition Ex. 335)	X			
894	Dawn Cockerel Statement (Plaintiffs' Deposition Ex. 337)	X			
895	Handwritten interview note with Connie Napoli 12/6/84	X			
896	2 Photos: hair envelope - John French hair sample; 5 hair envelopes – Lisa French, Lorie French, Mrs. French, Thomas Keena, Dave Washington	X			
897	Photo of hair slide holder – Frenches (2 photos – closed, open)	X			
898	Photos of multiple Q hair envelopes from van	X			
898a	package of Q hair envs				
898b	multiple Q envs sealed				
898c	multiple Q envs sealed				
899	Photos of front of individual Q hair envelopes from van (Q1-Q21)	X			
900	Photo of open Q hair envelopes (Q1, Q4, Q8)	X			
901*	5/20/85 Robinson letter to Rozzi (TR1502)		FRE 402		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
902	Slide holder with K1, Q1a-Q4a slides	X			
902a	902a (photo: K1/Q1a-Q4a slide holder closed)				
902b	902b (photo: K1/Q1a-Q4a slide holder open)				
902c	902c (photo: Q3a slide)				
902d	902d (photo: Q3a, Q4a slides)				
903	Photos:	X			
903a	Q5a-6a slide holder closed				
903b	Q5a-6a slide holder open				
903c	Q5a-6a slides closeup				
904	6 groups K hair envelopes (people in French car)	X			
904a	photo of envelopes				
905	2 Slide holders: K2-K7 hairs	X			
905a	2 Slide holders closed				
905b	1 Slide holder open				
905c	1 Slide holder open				
906	Slide Holders of Q van hairs	X			
906a	Q1-Q7 slide holder closed				
906b	Q1-Q7 slide holder open				
906c	Q9-11 slide holder open				
906d	Q12-15 slide holder closed				
906e	Q12-15 slide holder open				
906f	Q15-Q21 slide holder closed Q15-Q21 slide holder open				
907	Q4 envelope with debris	X			
907a	Photo:				
907b	Q4 envelope out of plastic Q4 envelope open				
908	Fusco time card 11/10	X			
909	KRT Peoples Ex. 21: photo of hot skates entryway cashier		FRE 402		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
910	KRT Peoples Ex. 19: photo of hot skates office with punch clock		FRE 402		
911	Q8 envelope	X			
911a	Photos:				
911b	Front				
	Back				
912	Photos:	X			
912a	Rear head sample env				
912b	Rear head env opening				
912c	rear head – paper towel				
912d	rear head – open paper towel with hair samples				
913	1986 R/H trial – Robinson closing argument		FRE 402		
914*	3/19/85 Robinson letter to NCPD Police Commissioner		FRE 402		
915	Newsday article 6/11/85: “Perjury Charged, Dismissed in Probe”		FRE 402		
916	Blowup of photo P17 (marked)		Defendants do not have exhibit		
917	Blowup of photo P17		Defendants do not have exhibit		
918	Blowup of photo		Defendants do not have exhibit		
919	Blowup of photo P198		Defendants do not have exhibit		
920	1/3/85 notes Walsh/Mitchell		FRE 402		
921*	John Restivo handwritten notes		FRE 402		
922	[INTENTIONALLY BLANK]				
923	Photo of Q5a Blue Blanket Slide Holder Open	X			
924	Fraas notes	X			
925	Fraas HR Grand Jury		Object as witness is testifying; Stipulate as to relevant portions for impeachment		
926	Barbara Wager Collins thesis		FRE 402; FRE 403; See, D.E. 136		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
927	Koch, et al. 2012 JFS Article: Taphonomy of Hair – A study of postmortem root banding		FRE 402; FRE 403; See, D.E. 136		
929	Excerpts of Volpe memo book		FRE 802		
930*	7/3/85 Deputy Commissioner Spahr letter to Robinson		FRE 402		
931	[INTENTIONALLY BLANK]				
932	Photo of Joseph Restivo, Sr. with Joey Jr.		FRE 402		
933	Restivo/Halstead '86 Trial Ex. BB—Wantagh phone records 11/10/84		FRE 402		
934	Photo: Straight job & International Cabover		FRE 402		
935	Photo: John Restivo with truck		FRE 402		
936	Photo: Maroon station wagon		FRE 402		
937	Charlie Restivo NCSD incarceration record		FRE 402		
938	Photo: International cabover		FRE 402		
939	RH '86 Trial Ex. CC—Darmstadt phone records 11/10/84		FRE 402		
940-942	[INTENTIONALLY BLANK]				
943	1984 11 year olds football schedule		FRE 402		
944	NOAA LGA Climactic Record Nov. 1984		FRE 402		
MC2	11/10/84 Cagan piano moving receipt	X			
TR3*	2/28/86 letter from Police Commissioner Rozzi to Robinson		FRE 402		
945	Photo: Side view of John Restivo's blue van		Defendants do not have exhibit		

PLAINTIFFS' LIABILITY EXHIBIT LIST

Ex #	Description	Stipulated	Defense Objection	ID	Evid.
946	Reports Concerning Court Authorized Intercepts of Wire or Oral Communications Pursuant to Title 18, United States Code, Sec. 2519, New York, 1985 (pg. 94-95)		Defendants do not have exhibit		
947	DE 65 (Defendants' Opposition to Plaintiffs' Motion to Deem 2nd Request for Admissions Admitted)		FRE 402		
948	DE 65-1 (Decl. of Liora Ben-Sorek))		FRE 402		
949	Defendants' Responses to Plaintiffs' Second Request for Admissions		FRE 402		
950	Mitotyping Technologies Report, 10/21/02	X			
951	Melton's Expert Report, 4/9/12	X			
952	Defendants' Amended Responses to Plaintiff John Kogut's Second Set of Interrogatories		FRE 402		
953	Defendants' Answer to Plaintiffs' Amended Complaint		FRE 402		
954	Richard Saferstein, <i>Criminalistics: An Introduction to Forensic Science</i> (2d Ed. 1981)		FRE 402		

Defendants' Exhibits

*Defendants reserve the right to identify rebuttal and/or impeachment exhibits.

*The following list may be amended subject to the Court's in limine rulings.

*Defendants do not waive objections to any exhibits on this list.

Plaintiffs' reserve the right to amend any objection or stipulation in light of the witnesses that testify and the Court's rulings on motions *in limine*.

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
ATU1	Statement of Andrew Tursi, handwritten and typed	NC 18362-18364	Stipulated	
ATU2	Transcript of Trial Testimony, Andrew Tursi, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
ATU3	Transcript of Trial Testimony, Andrew Tursi, People v. Restivo			FRE 802, 803
BO1	PDCN 79 Form for Brian O'Hanlon	Def. Ex. GGGG		FRE 401, 402, 403, 802, 803
BO10	Statement of Brian O'Hanlon, District Attorney's Investigation, 9/20/85	NC 46873-46879		FRE 401, 402, 403, 802, 803
BO11	Transcript of DA Q&A w/ Brian O'Hanlon dated 9/20/85	Pl. Ex. 228, Klein Deposition		FRE 401, 402, 403, 802, 803
BO14	Phone bill from O'Hanlon's house	People's Ex. 24 (People v. Restivo)		FRE 401, 402, 403, 602, 802, 803, 901
CF1	List of People in John French's Car and Hair Samples	Pl. Ex. 164	Stipulated	
CF2	Fraas Notes, handwritten	NC 13803		Appear to be notes of Fred Klein; FRE 401, 402, 403, 802, 803, 602, 901.
CF3	Transcript of Deposition of Charles Fraas, 12/4/08			FRE 401, 402, 403, 602, 608, 802, 803, FRCP 32 violation
CF4	Transcript of Trial Testimony of Det. Fraas, People v. Restivo			FRE 802, 803
CF5	Transcript of Trial Testimony of Det. Fraas, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
CF6	Transcript of Trial Testimony of Det. Fraas, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

Ex #	Document Description	Reference	Stipulated	Plaintiffs' Objections
CF7	SIB Receipt/Reports	NC 13084-13094		FRE 401, 402, 403, 802, 802; Redactions for Kogut and Kelly Morrissey
CF8	Transcript of Trial Testimony of Det. Fraas, Kogut v. Cty of Nassau (2012)			FRE 802, 803
CN1	Photographs of blue jeans	Def. Ex. L, M, N and O		FRE 401, 402, 403, 901
CN2	TF Missing Person Poster	Pl. Ex. 168	Stipulated	
CN3	Notes on Theresa's Clothing and Jewelry on November 10, 1984 as described by C. Napoli, handwritten, dated 12/6/84	NC 13015-17	Stipulated	
CN4	NCPD Photography Unit Photo of "S" Ring	NC 13008		FRE 401, 402, 403; Note that this bates stamp is actually photo of heart charm.
CN5	NCPD Photography Unit Photo of Heart Charm	NC 13009		FRE 401, 402, 403
CN6	NCPD Photography Unit Photo of Unicorn Charm	NC 13012		FRE 401, 402, 403
CN7	Notes of Interview with Connie Napoli dated 12/11/84, handwritten and typed	Pl. Ex. 60	Stipulated*	*Stipulated to full version; version marked as CN7 appears to have redactions
CN8	Picture of Theresa Fusco at Sweet Sixteen Party of Halstead's Sister	Def Ex. RRR		FRE 401, 402, 403, 901
CN9	Transcript of Trial Testimony of C. Napoli, People v. Restivo			FRE 802, 803
CN10	Transcript of Trial testimony of C. Napoli, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
CN11	Transcript of Trial Testimony of C. Napoli, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
CN12	8 x 10 photo of Theresa Fusco		Stipulated	
CN13	Transcript of Trial Testimony of Connie Napoli, Kogut vs. Cty of Nassau (2012)			FRE 802, 803
CR1	Transcript of Deposition of Charles Restivo, 10/25/11			FRCP 32 violation; FRE 401, 402, 403, 404, 602, 608, 802, 803
CR2	Article, "Man Accused of Attacking Witness," Newsday, Long Island-October 5, 1986	Def. Ex. OOO		FRE 401, 402, 403, 404, 602, 608, 802, 803
CR3	Kogut Note to District Attorney, handwritten, 4/16/85	Def. Ex. Y		FRE 401, 402, 403, 802, 803, 901; MIL re Kogut statement
CR4	Letter to "Ms. Essie Drake" Re: Mrs. Bivins storage bill	Def. Ex. CCCC		FRE 401, 402, 403, 802, 803, 901
CR5	Statement of Charles J. Restivo, given to Rick Arden, 10/28/85	Def. Ex. DDDD		FRE 401, 402, 403, 404, 608, 802, 803,
CR6	Move-Right Check to Charles Restivo, 6/8/83	Def. Ex. EEEE		FRE 401, 402, 403, 802, 803, 901
CS1	Detective Hillman interview of Cheryl Schneider	NC 77133		FRE 401, 402, 403, 404, 608, 802, 803, MIL KM
CS2	Grand Jury Testimony of Sheryl Schneider, 6/12/85			FRE 401, 402, 403, 404, 802, 803
DC1	Dawn Cockerel statement to Rick Arden	NC 13824-13825		FRE 401, 402, 403, 404, 802, 803
DC2	Grand Jury Testimony, Dawn Cockerel, People v. John Doe Investigation, June 10, 1985			FRE 401, 402, 403, 404, 802, 803
DCA1	Move-Right Movers invoice, 11/24/84 (Mrs. Campbell)			FRE 401, 402, 403, 901

DEFENDANTS' LIABILITY EXHIBIT LIST

Ex #	Document Description	Reference	Stipulated	Plaintiffs' Objections
DH1	Transcript (handwritten) of Wiretapped Phone Conversation between Halstead and Loraine DiGuiseppe, monitored by Det. Mitchell dated 3/29/85	Def. Ex. XXX		FRE 401, 402, 403, 802, 803, MIL <i>see</i> D.E. 180-1 (06-cv-6695)
DH2	Wiretapped phone conversation between Dennis Halstead and Linda Miller	NC 78841		FRE 401, 402, 403, 802, 803, MIL <i>see</i> D.E. 180-1 (06-cv-6695)
DH3	Transcript of Deposition of Dennis Halstead, 12/12/06			FRE 401, 402, 403, 404, 608
DH4	Transcript of Deposition of Dennis Halstead, 7/25/11			FRE 401, 402, 403, 404, 608
DH5	Transcript of Deposition of Dennis Halstead, 7/26/11			FRE 401, 402, 403, 404, 608
DH6	Transcript (typed) of Wiretapped Phone Conversation between Halstead and Linda Miller dated 4/6/85	Def. Ex. UUU		Incomplete transcript of longer conversation; FRE 106, 401, 402, 403, 608, 609, 901
DH7	Transcript of Trial Testimony of Dennis Halstead, People v. Restivo			FRE 403, 802, 803
DH8	Apalachee Center, Inc. Questionnaire for Dennis Halstead, 12/12/06	Def. Ex. QQQ		FRE 401, 402, 403, 404, 802, 803
DH9	NCPD Form 79 for Dennis Halstead	Def. Ex. TTT		FRE 403, 404, 802, 803
DH10	Letter from Dennis Halstead to "Gretchen," 11/1/89	Def. Ex. VVV		FRE 403, 404, 802, 803, MIL
DH11	Mission of the Immaculate Virgin, Mount Loretto Records for Dennis Halstead	Def. Ex. WWW		FRE 403, 404, 802, 803, MIL for selected documents

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
DH12	Transcript of Trial Testimony, Dennis Halstead, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims)
DH13	Leon County Sheriff's Office, Daily Booking Report, 2/17/2014	http://www.leoncountysoc.com/tools/booking_reports/LCSO_Daily_Booking_Report_02182014.pdf		FRE 401, 402, 403, 404, 608, 609, 802, 803
DM1	Transcript of Trial Testimony of ME Daniel McCarthy, People v. Restivo		Stipulated	
DM2	Transcript of Trial Testimony of ME McCarthy, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
DS1	Connaughton notes on David Skellington, 6/18/85	Pl. Ex. 95		FRE 401, 402, 403, 404, 802, 803
DS2	Interview of David Skellington	NC 29327		FRE 401, 402, 403, 404, 802, 803
DS3	Notes of Detective Hillman Interview of David Skellington dated 6/8/11	NC 077130		FRE 401, 402, 403, 404, 802, 803
DS4	Transcript, Grand Jury Testimony, David Skellington, June 10, 1985			FRE 401, 402, 403, 404, 802, 803
DSM1	Detective Volpe's Notes on Statement of Debbie Smith, handwritten	Pl. Ex. 160		FRE 401, 402, 403, 802, 803
DSM2	Statement of Debbie Smith dated 12/9/84, handwritten	Pl. Ex. 159		FRE 401, 402, 403, 802, 803
DSM3	Transcript of Deposition of Debra Smith, 3/22/11			FRCP 32 violation, FRE 401, 402, 403, 404, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
DSM4	Homicide Lead Sheet, lead source= Debbie Smith	Pl. Ex. 158		FRE 401, 402, 403, 802, 803
DSM5	Transcript of Trial Testimony, Debbie Smith, Kogut v. Cty. of Nassau (2012)			FRE FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
EB1	Notes, "4 Latents Remain Open"	NC 029417		FRE 401, 402, 802, 803, 901
EB2	Crime Scene Search Unit Scene Examination Report "Additional to 12/5/84" dated 12/7/84, description of photos taken of French Auto and list of items found in French Auto	Pl. Ex. 167		FRE 401, 402, 403, 802, 803, 901
EB3	Latent Fingerprint Reports, Vehicle Processing Worksheets and Crime Scene Examination Reports	Def. Ex. A and A-1		FRE 401, 402, 403, 802, 803
EB4	Transcript of Trial Testimony of P.O. Beahr, People v. Restivo			FRE 802, 803
EB5	Transcript of Trial Testimony of P.O. Beahr, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
EC1	Statement of Steve and Elizabeth Cagan	NC 048628 – 30		FRE 401, 402, 403, 802, 803
EC2	Work Sheet Invoice for Piano Move by Move-Right (11/10/84)	Def. Ex. FF		FRE 401, 402, 403, 802, 803
EM1	Progress Report Re: 3/29/85 Eavesdropping Warrant	Pl. Ex. 237		FRE 401, 402, 403, 802, 803
EM2	Eavesdropping Warrant effective 3/14/85	Pl. Ex. 178		FRE 401, 402, 403, 802, 803
EM3	Progress Report Re: 3/14/85 Eavesdropping Warrant	Pl. Ex. 236		FRE 401, 402, 403, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

Ex #	Document Description	Reference	Stipulated	Plaintiffs' Objections
EM4	Eavesdropping Warrant effective 3/29/85	Pl. Ex. 157		FRE 401, 402, 403, 802, 803; exclusion of Kogut confession
EM5	Transcript of Deposition of Hon. Edward McCarty, 12/20/10			FRCP 32 violation, FRE 401, 402, 403, 404, 602, 608, 802, 803.
EM6	Transcript of Trial Testimony of Hon. Edward McCarty, Kogut vs. Cty of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803.
ET1	Interview of Eileen Tosner, 1/22/85	NC 29839		FRE 401, 402, 403, 802, 803
ET2	Lead Sheet, Eileen Tosner	NC 29837-29838		FRE 401, 402, 403, 802, 803
ET3	Interview of Eileen Tosner, 2/1/85	NC 29840-29842		FRE 401, 402, 403, 802, 803
FK1	Transcript of Deposition of Fred Klein, 8/23/10			FRCP 32 violation, FRE 401, 402, 403, 404, 602, 608, 802, 803
FK2	Transcript of Deposition of Fred Klein, 9/1/10			FRCP 32 violation, FRE 401, 402, 403, 404, 602, 608, 802, 803
FK3	Transcript of Deposition of Fred Klein, 9/8/10			FRCP 32 violation, FRE 401, 402, 403, 404, 602, 608, 802, 803
FK4	Transcript of Deposition of Fred Klein, 4/3/12			FRCP 32 violation, FRE 401, 402, 403, 404, 602, 608, 802, 803
FK5	Voluntary Disclosure Notices and Demands, John Kogut, 6/27/85	Def. Ex. G		FRE 401, 402, 403, 802, 803
FK6	Affirmation of ADA Fred Klein, 3/21/86	Def. Ex. H		FRE 401, 402
FK7	Voluntary Disclosure Notices and Demands, Dennis Halstead and John Restivo, 6/27/85	NC 14058, 14061, 14064, 14068		FRE 401, 402, 403, 802, 803
FK11A	Crime Scene photo 40		Stipulated	
FK11B	Crime Scene photo 41		Stipulated	

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
FK11C	Photograph of Blue Econoline van		Stipulated	
FK12	Transcript of Trial Testimony, Fred Klein, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
FK13	Indictment, People v. Restivo and Halstead (1985)			FRE 401, 402, 403, 802, 803
FS1	Transcript and/or video of Deposition of Frank Sirianni, 6/15/10			Redact per MILs, see objections to FRCP 32 designations
FS2	Transcript and/or video of Deposition of Frank Sirianni, 12/13/11			Redact per MILs, see objections to FRCP 32 designations
FS3	Transcript and/or video of Deposition of Frank Sirianni, 12/14/11			Redact per MILs, see objections to FRCP 32 designations
GD1	TF Missing Person's Report dated 11/11/84 and supplementary reports	NC 14171-14194		Redact per MILs, FRE 401, 402, 403, 802, 803.
GP1	Transcript of Kogut Video Confession to ADA Peck 3/26/1985; DVD entitled "Dub Copy of Interview with John Kogut" 3/26/85	Def. Ex. ZZZZ; NC 76734		FRE 401, 402, 403, 802, 803; ruling excluding Kogut confession
GP2	Transcript of Trial Testimony of ADA Peck, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803; ruling excluding Kogut confession
GP3	Transcript of Trial Testimony of George Peck, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803; ruling excluding Kogut confession
GP4	Transcript of Trial Testimony of Hon. George Peck, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, 802, 803; ruling excluding Kogut confession
HG1	Statement, Howard Garcia	NC 13879-13880	Stipulated	

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
HS1	Excerpts from March 1985 homicide blotter	Pl. Ex. 134		FRE 401, 402, 403, 802, 803, MIL re Restivo statement
HS2	Perrino Notes on Smyle Interview beginning 3/5/85, handwritten	Pl. Ex. 191		FRE 802 – 804, redact per MIL
HS3	Perrino Notes on Smyle Interview beginning 3/5/85, typed	Pl. Ex. 193		FRE 802 – 804, redact per MIL
HS4	Volpe's Notes on Smyle and leads to John Restivo	Pl. Ex. 176		FRE 802 – 804, redact per MIL
HS5	Homicide Lead Sheets for Harold Smyle	NC 10101-10104		FRE 403, 404, 802 – 804, redact per MIL
HS6	Transcript of Grand Jury Testimony of Harold Smyle			FRE 802 – 804.
HS7	NCPD Form 79 for Harold Smyle dated 3/5/85	Pl. Ex. 192		FRE 401, 402, 403, 404, 802 – 804, redact per MIL
HS8	Statement of Harold Smyle dated 3/27/85, handwritten	Pl. Ex. 198		FRE 403, 404, 802 – 804, redact per MIL
HS9	Statement of Harold Smyle dated 3/27/85, typed	PL. Ex. 199		FRE 403, 404, 802 – 804, redact per MIL
HS10	Harold Smyle Interview, 3/5/85 and statement, 3/7/85	NC 18343 – 44		FRE 403, 404, 802 – 804, redact per MIL
HS11	Statement of Harold Smyle dated 3/7/85, handwritten	Pl. Ex. 195		FRE 403, 404, 802 – 804, redact per MIL
HS12	Statement of Harold Smyle dated 3/7/85, typed	Pl. Ex. 193		FRE 403, 404, 802 – 804, redact per MIL
HS13	Statement of Harold Smyle dated 6/25/85, typed	NC 18347		FRE 403, 404, 802 – 804, redact per MIL
HS14	Statement of Harold Smyle dated 9/18/86, typed	NC 18353		FRE 403, 404, 802 – 804, redact per MIL

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
HS15	Transcript of Trial Testimony of Harold Smyle, People v. Restivo			FRE 403, 404, 802 – 804, redact per MIL
HS16	Transcript of Deposition of Harold Smyle, 1/5/12			FRCP 32 violation, FRE 403, 802, 803, 804
HS17	Transcript of Trial Testimony of Harold Smyle, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims) FRE 802, 803
HS18	Declaration of Harold Smyle			FRE 403, 802, 803, redact per MILs
HS19	NCPD Form 79 for Harold Smyle dated 3/5/85	Pl. Ex. 176		Duplicate of HS7; same objections
HW1	Waltman Report dated 12/6/84	Pl. Ex. 137	Stipulated*	*Stipulate to full version; version marked HW1 has redaction
HW2	Transcript of Deposition of Harry Waltman, 2/23/09			FRCP 32 violation, FRE 802, 803
HW3	Transcript of Trial Testimony of Det. Waltman, People v. Restivo			FRE 802, 803
HW4	Transcript of Trial Testimony of Det. Waltman, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
HW5	Transcript of Trial Testimony of Waltman, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
JF1	Transcript of Deposition of John French, 4/19/11			FRCP 32 violation, FRE 802, 803
JF2	List of Items Missing from John French's Car dated 12/11/84	Def. Ex. J	Stipulated	
JF3	John French Statement, dated 12/7/84, handwritten	Pl. Ex. 163	Stipulated	
JF4	French stolen car report & NCPD Vehicle/Boat Recovery Report	Pl. Ex. 166	Stipulated	

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
JF5	Volpe Notes Re: French Stolen Car	Def. Ex. I	Stipulated	
JF6	Sirriani Notes on John French dated 12/6/84	PI Ex. 161	Stipulated	
JF7	Trial Testimony of John French, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
JK1	Transcript and/or video of Deposition of John Kogut, 1/30/12			FRE 401, 402, 403, 404, 608, 802, 803 MIL re Kogut confession
JK2	Transcript and/or video of Deposition of John Kogut, 1/31/12			FRE 401, 402, 403, 404, 608, 802, 803, MIL re Kogut confession
JK3	Volpe Notes on John Kogut dated 3/21/85, handwritten	PL. Ex. 65		FRE 401, 402, 403, 404, 608, 802, 803, MIL re Kogut confession, KM
JK4	Transcript of Trial Testimony of John Kogut, People v. Kogut (1986)			FRE 401, 402, 403, 404, 802, 803
JK5	Notice of Alibi, John Kogut, 4/11/86	Def. Ex. JJJJ		FRE 401, 402, 403, 802, 803
JK6	Pre-Sentence Report for John Kogut	Def. Ex. LLLL		FRE 401, 402, 403, 404, 802, 803, 901, MIL
JK7	Map of Crime Scene Tour	Def. Ex. MMMM		FRE 401, 402, 403, 602, 802, 901, MIL
JK8	Statement of John Kogut re: Burglary of Foster Father's Beverage Store, dated 4/21/81	Def. Ex. RRRR and SSSS		FRE 401, 402, 403, 404, 802, 803, MIL
JK9	Final Disposition Report-140.20 (Burg 3) for John Kogut, arrest date 4/21/81	Def. Ex. TTTT		FRE 401, 402, 403, 404, 802, 803, MIL
JK14	Consent to Take a Polygraph Examination, signed by John Kogut	NC 28153		FRE 401, 402, 403, 802, 803, MIL
JK15	Trial Transcript of John Kogut, Kogut v. Cty of Nassau (2012)			FRE 401, 402, 403, 404, 802, 803, MIL

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
JO1	Notes of Sgt. Overs (Lynbrook Police) dated 12/5/84, typed	(Pl. Ex. 44, Volpe Deposition)	Stipulated	
JO2	Transcript of Trial Testimony of Sgt. Overs. People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
JO3	Transcript of Trial Testimony of Sgt. Overs, People v. Restivo			FRE 802, 803
JO4	Transcript of Trial Testimony of Sgt. Overs, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
JO5	Trial Transcript of John Overs, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
JP1	Norwegian Folk Dance, November/December 1984	NC 78864		FRE 401, 402, 403, 802, 803, 901
JR1	Transcript of trial testimony of John Restivo, People v. Restivo			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims)
JR2	Detective Volpe Notes, 3/5/85	NC 11817-11818		Redact per MIL, FRE 401, 402, 403, 404, 608, 802, 803, 901
JR3	Car Registration Form for GMC van	Def. Ex. S		FRE 401, 402, 403, 802, 803, 901
JR4	Statement of John Restivo, 3/6/85, handwritten	Def. Ex. KKK		FRE 401, 402, 403, 404, 802, 803, MIL see D.E. 132 (06-cv-0720)
JR5	Statement of John Restivo 3/6/85, typed	Pl. Ex. 177		FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-0720)
JR6	Transcript of Deposition of John Restivo, 11/16/09			FRE 403, 404, 608, MIL
JR7	Transcript of Deposition of John Restivo, 6/13/11			FRE 403, 404, 608, MIL

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
JR8	Transcript of Deposition of John Restivo, 6/14/11			FRE 403, 404, 608, MIL
JR9	Pre-sentence Report for John Restivo	Def. Ex. P		FRE 402, 403, 404, 802, 803, 901, MIL
JR10	Move-Rite Corporate Records	Def. Ex. YYY		FRE 401, 402, 403
JR11	Move-Rite Certificate of Dissolution	Def. Ex. ZZZ		FRE 401, 402, 403
JR12	Move-Rite Checks, May of 1985	Def. Ex. AAAA & BBBB		FRE 401, 402, 403
JR13	Bills of Lading, Move-Rite Movers, 11/13/84	Def. Ex. EE		FRE 401, 402, 403
JR14	Move-Right Movers, check stubs for 1984	Def. Ex. GG		FRE 401, 402, 403
JR15	DMV Registration, check stub, 11/8/84	Def. Ex. HH		FRE 401, 402, 403
JR16	Phone Records of John Restivo	NC 26348 - 51		FRE 801, 802, 803, 901
JR17	Transcript of Trial Testimony, John Restivo, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims)
JR18	Registration and application to renew registration for blue Ford Econoline van	People's Ex. 39 (People v. Restivo)		FRE 401, 402, 403, 802, 803, 901
JS1	Transcript of Deposition of Jack Sharkey, 2/26/09			FRCP 32 violation, see D.E. 353 re PC/MIL (06-CV-6695); MIL see D.E. 132 (06-CV-0720), FRE 401, 402, 403, 802, 803
JS2	NCPD Missing Person Supplementary Report (Theresa Fusco)			FRE 401, 402, 403, 404, 802, 803, redact per MIL
JS3	Crime Scene Log, 12/5/84, 12/6/84	Def. Ex. B-1	Stipulated	
JS4	Sharkey Notes of Interview of Robert Martini, handwritten	Pl. Ex. 150		FRE 401, 402, 403, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
JS5	Sharkey's Notes on Interview w/ John Restivo 3/6/85	Pl. Ex. 132		FRE 401, 402, 403, 404, 802, 803, MIL see D.E. 132 (06-cv-0720)
JS6	Sharkey's Notes Re: Murder Investigation of Theresa Fusco, handwritten	Pl. Ex. 146		FRE 401, 402, 403, 802, 803
JS7	"262" Detective Division Supplementary Reports by Detective Volpe	Pl. Ex. 45		FRE 401, 402, 403, 802, 803; MILs
JT1	Phone Records of Harold O'Hanlon (1/22/86 to 1/31/86)	Trial exhibit 28 (1986)		FRE 401, 402, 403, 802, 803, 901; illegible
JT2	Transcript of Trial Testimony of Joseph Taylor, People v. Restivo			FRE 401, 402, 403, 802, 803
JV1	Transcript and/or video of Deposition of Joseph Volpe, 1/26/09			See objections to FRCP 32 designations; FRE 401, 402, 403,404, 802, 803
JV2	Transcript and/or video of Deposition of Joseph Volpe, 3/5/09			See objections to FRCP 32 designations; FRE 401, 402, 403,404, 802, 803
JV3	Transcript and/or video of Deposition of Joseph Volpe, 3/18/09			See objections to FRCP 32 designations; FRE 401, 402, 403,404, 802, 803
JV4	Transcript and/or video of Deposition of Joseph Volpe, 4/6/09			See objections to FRCP 32 designations; FRE 401, 402, 403,404, 802, 803
JV5	Transcript and/or video of Deposition of Joseph Volpe, 5/4/09			See objections to FRCP 32 designations; FRE 401, 402, 403,404, 802, 803
JV6	Transcript and/or video of Deposition of Joseph Volpe, 11/24/09			See objections to FRCP 32 designations; FRE 401, 402, 403,404, 802, 803
JV7	Transcript and/or video of Deposition of Joseph Volpe, 12/2/09			See objections to FRCP 32 designations; FRE 401, 402, 403,404, 802, 803
JV8	Transcript and/or video of Deposition of Joseph Volpe, 11/19/10			See objections to FRCP 32 designations; FRE 401, 402, 403,404, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
KC1	NCPD Form 79 for Kenneth Cockerel dated 4/19/85			FRE 401, 402, 403, Polygraph MIL (note: this is not a form 79)
KC2	Transcript of grand jury testimony of Kenneth Cockerel, People v. John Doe Investigation, June 10, 1985			FRE 401, 402, 403, 404, 802, 803
KC3	Transcript of Trial Testimony, Kenneth Cockerel, Restivo v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims) 802, 803
KK1	Interview of Kim Kruse, Detective Hillman	NC 77101-77102		FRE 401, 402, 403, 404, 802, 803, MILs
KK2	Statement, Kim Beyer	NC 13875-13877		FRE 401, 402, 403, 404, 802, 803, MILs
KK3	Transcript of Trial Testimony, Kimberly Kruse, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
LG1	Transcript and/or video of Deposition of Lori French Gabberty, 3/16/11			FRCP 32 violation, FRE 802, 803
LG2	Transcript of Trial Testimony, Lori French Gabberty, Kogut v. Cty of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
LJ1	Additional Lead Sheet dated 12/7/84, source = Lisa Kaplan	NC 023690		FRE 401, 402, 403, 802, 803
LJ2	Handwritten Note/Msg to Volpe from Dempsey Re: Lisa Kaplan Phone Call dated 12/10/84 @ 1830hrs	NC 023694		FRE 401, 402, 403, 802, 803
LJ3	List of names, addresses and other information given to NCPD by Lisa Kaplan, handwritten	NC 023689		FRE 401, 402, 403, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
LJ4	Notes from Re-Interview of Lisa Kaplan, handwritten dated 12/11/84			FRE 401, 402, 403, 802, 803
LJ5	Notes of Interview of Lisa Kaplan, handwritten, dated 12/5/84	NC 023666-70	Stipulated	
LJ6	Notes on Interview of Lisa Kaplan dated 12/5/84, typed; Homicide Lead Sheets (source= Lisa Kaplan); Alger/Sharkey Notes of Lisa Kaplan Interview, handwritten.	Pl. Ex. 58	Stipulate only to typed version of LJ5	Object to all exhibits other than typed version of LJ5, FRE 401, 402, 403, 802, 803
LJ7	Transcript of Trial Testimony of Lisa (Kaplan) Johnson, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
LJ8	Transcript of Trial Testimony of Lisa Kaplan, People v. Restivo			FRE 802, 803
LJ9	Transcript of Trial Testimony of Lisa Kaplan, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
LJ10	Transcript of Trial Testimony, Lisa Johnson, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
LK1	Connaughton notes on Leo Klein, 6/12/85	Pl. Ex. 94		FRE 401, 402, 403, 802, 803
LK2	Statement of Leo Klein dated 5/25/85	NC 48604		FRE 401, 402, 403, 802, 803
LK3	Statement of Leo Klein dated 6/17/85	NC 48605-06		FRE 401, 402, 403, 802, 803
LK4	Transcript of Trial Testimony of Leo Klein, People v. Restivo			FRE 401, 402, 403, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
LK5	Receipts from Prez Tool rental	People v. Restivo, Trial exhibits 23, 37, T, NN, OO, PP and AAA		FRE 401, 402, 403, 802, 803
M1	Map of Lynbrook, street view	Def Ex. WW	Stipulated	
M2	Map of Lynbrook, aerial view-marked	Def Ex. CC	Stipulated	
M3	Map of Lynbrook, arerial view-marked, Large	Def Ex. R	Stipulated	
M4	Map of Lynbrook	Def. Ex. Q	Stipulated	
M5	Map of Lynbrook w/location where French auto was reported stolen and location where car was recovered marked	Pl. Ex. 170	Stipulated*	Redact for Debbie Smith (FRE 401, 402, 403)
M6	Map of Merrick Road and Atlantic Avenue	Def. Ex. D1 (at Pozzini's deposition)		Not provided by Defendants
M7	Map of Merrick Road and Ocean Avenue	Def. Ex. D2 (at Pozzini's deposition)		Not provided by Defendants
M8	Map of Merrick Road and Ocean Avenue (with location of Theresa Fusco's body marked)			Not provided by Defendants
M9	Map of Park Place and the location where Theresa Fusco's body was found	Trial exhibit 24 (2005)		Not provided by Defendants
M10	Map drawn at crime scene by P.O. Caputo			Not provided by Defendants

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
	(12/5/84)			
MB1	Statement of Marcello Baez, 12/5/84	NC 13809	Stipulated	
MB2	Trial testimony of Marcello Baez, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
MB3	Trial Testimony of Marcello Baez, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
MC1	Statement of Michael Cockerel dated 4/2/85, handwritten	Pl. Ex. 205		FRE 401, 402, 403, 404, 802, 803, MIL
MC2	Notes of Interview of Michael Cockerel dated 4/2/85	NC 20129-20131		FRE 401, 402, 403, 404, 802, 803, MIL
MC3	Notes re: Michael Cockerel dated 2/16/86	NC 20134-38		FRE 401, 402, 403, 404, 802, 803, MIL
MC4	Polygraph Materials for Michael Cockerel dated 4/2/85	Pl. Ex. 204		FRE 401, 402, 403, 802, 803, MIL polygraph
MC5	Statement of Michael Cockerel dated 4/2/85, handwritten	Pl. Ex. 205		FRE 401, 402 403, 404, 802, 803, MIL; duplicate of MC1
MC6	Statement of Michael Cockerel dated 4/2/85, typed	Pl. Ex. 206		FRE 401, 402 403, 404, 802, 803, MIL
MC7	Statement of Michael Cockerel, handwritten dated 3/15/85	Pl. Ex. 200		FRE 401, 402 403, 404, 802, 803, MIL
MC8	Transcript of Grand Jury Testimony of Michael Cockerel, People v. John Doe Investigation			FRE 401, 402 403, 404, 802, 803, MIL; redact per MIL
MC9	Transcript of Trial Testimony of Michael Cockerel, People v. Restivo			FRE 401, 402 403, 404, 802, 803, MIL; redact per MIL
MC10	Polygraph Examination Materials for Michael Cockerel dated 4/2/85	Pl. Ex. 204		FRE 401, 402 403, 404, 802, 803, MIL

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
MC11	Detective Kuhn Interview of Michael Cockerel	NC 12232-12233		FRE 401, 402 403, 404, 802, 803, MIL
MC12	NCPD 79 Michael Cockerel dated 3/15/85	Pl. Ex. 86; 202		FRE 401, 402 403, 404, 802, 803, MIL
MC13	NCPD Form 79 for Michael Cockerel dated 4/2/85	Pl. Ex. 207		FRE 401, 402 403, 404, 802, 803, MIL
MC14	NCPD Form 79 for Michael Cockerel dated 4/2/85	Pl. Ex. 207		Duplicate of MC13; same objections
MC15	Notes of Interview of Michael Cockerel dated 4/2/85, typed	Pl. Ex. 203		FRE 401, 402, 403, 404, 802, 803, MIL
MC16	Notes on Interview of Michael Cockerel dated 4/2/85, typed	Pl. Ex. 203; NC 20129-20131		FRE 401, 402, 403, 404, 802, 803, MIL
MC18	Michael Cockerel Statement to Rick Arden, 5/2/85	NC 13452-13454		FRE 401, 402, 403, 404, 802, 803, MIL
MC19	Trial Testimony of Michael Cockerel, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims) 404, 802, 803
MCO1	Homicide Lead Sheet for Dennis Halstead (source=John Restivo) beginning 3/13/85	Def. Ex. SSS		FRE 401, 402, 403, 404, 802, 803, MIL see D.E. 132 (06-cv-6720)
MCO3	Search Warrant for 1977 Blue Ford Van, Order and Affidavit w/exhibit	Pl. Ex. 111		FRE 401, 402, 403, 802, 803, redact for Kogut confession
MCO4	Connaughton Notes of Interview of M. Goergies, handwritten dated 8/22/85	Pl. Ex. 82		FRE 401, 402, 403, 802, 803
MCO5	Kuhn Fax w/Connaughton notes/memobook entries for 3/18/85; 3/20/85; 3/22/85; 3/25/85-	Pl. Ex. 87		FRE 401, 402, 403, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
	3/27/85; 3/29/85; 4/1/85-4/5/85; 4/8/85; 4/16/85 to 4/19/85; 4/24/85-4/26/85; 6/18/85			
MCO10	Transcript of Trial Testimony P.O. Connaughton, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
MCO12	Transcript of Deposition of Michael Connaughton, 1/29/09			FRCP 32 violation, 401, 402, 403, 802, 803
MCO13	Transcript of Trial Testimony of P.O. Connaughton, People v. Restivo			FRE 401, 402, 403, 802, 803
MCO14	Transcript of Trial Testimony of P.O. Connaughton, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
MCO15	Trial Testimony of Michael Connaughton, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
MG1	Transcript of Trial Testimony of Det. Gruber, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803, MIL poly
MG2	Transcript of Trial Testimony of Gruber, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803, MIL poly
MH1	Taphonomy of Hair- A Study of Post-Mortem Root Banding			FRE 802, 803; more recent published version exists
P1- P235	Crime Scene Photos Numbered 1-129, Fusco Investigation, Nassau County Police Department			FRE 401, 402, 403 to specific photos; and FRE 401, 402, 403, 802, 803, and 901 to numbering
P239	Autopsy Photos of Theresa Fusco	NC 13271; NC 12962-		FRE 401, 402, 403 for any cumulative/prejudicial autopsy photos

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
		12981		
P239A	Autopsy Photo of Theresa Fusco			FRE 401, 402, 403 for any cumulative/prejudicial autopsy photos
P239B	Autopsy Photo of Theresa Fusco			FRE 401, 402, 403 for any cumulative/prejudicial autopsy photos
P239C	Autopsy Photo of Theresa Fusco			FRE 401, 402, 403 for any cumulative/prejudicial autopsy photos
P239D	Autopsy Photo of Theresa Fusco			FRE 401, 402, 403 for any cumulative/prejudicial autopsy photos
P250	Aerial photo not previously marked: Enlarged photo of location where Theresa Fusco's jewelry was found and location of Theresa Fusco's body with exhibit markers			FRE 401, 402, 403
P251	Aerial photo not previously marked: location of Theresa Fusco's body by the LIRR tracks			FRE 401, 402, 403
P252	Aerial photos not previously marked: View west of Ocean Avenue			FRE 401, 402, 403
P253	Aerial photos not previously marked: View west of Ocean Avenue			FRE 401, 402, 403
PW1	Transcript of Deposition of Peter Weinstein, 2/10/11			Due to Peter Weinstein's unavailability; the parties should propose designations
PW2	Transcript of Deposition of Peter Weinstein, 1/13/12			Due to Peter Weinstein's unavailability; the parties should propose designations

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
RB1	Transcript of Trial Testimony of Robert Bauman, People v. Restivo			FRE 802, 803
RB2	Transcript of Trial Testimony of Robert Bauman, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
RB3	Transcript of Trial Testimony of Robert Bauman, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
RBE1	Transcript of Trial Testimony of Rochelle Bernstein, People v. Restivo			FRE 802, 803
RBE2	Theresa Fusco's Hot Skates Time Card, dated 11/10/84	Trial Exhibit 7 (1986)	Stipulated	
RBE3	Transcript of Trial Testimony of Rochelle Bernstein, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
RBE4	Transcript of Trial Testimony of Rochelle Bernstein, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
RBE5	Theresa Fusco's employment application	Trial Exhibit 17 (2005)		FRE 401, 402, 403, 802, 803
RBE6	Trial Testimony of Rochelle Bernstein, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
RBR1	Transcript of Trial Testimony of Richard Brusa, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
RBR2	Transcript of Trial testimony of Det. Brusa, People v. Restivo			FRE 802, 803
RD3	NCPD Form 79 for John Restivo dated 3/6/85	Def. Ex. LLL		FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
	@0350hrs			6720)
RD4	NCPD Form 79 for John Restivo dated 3/6/85 @1620hrs	Def. Ex. MMM		FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
RD7	Dempsey's Notes on John Restivo beginning at 2350(11:50pm) on 3/5/85 and going through 1610 (4:10pm) on 3/6/85	Pl. Ex. 131		FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
RD9	Sharkey's Notes of Interview with Restivo dated 3/6/85 beginning at 9:20am, handwritten	Def. Ex. NNN		FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
RD10	Transcript of Deposition of Robert Dempsey, 2/13/09			FRCP 32, FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
RD11	Transcript of Deposition of Robert Dempsey, 1/24/12			FRCP 32, FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
RD12	Transcript of Deposition of Robert Dempsey, 5/18/10			FRCP 32, FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
RD13	Transcript of Trial Testimony of Det. Dempsey, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
RD14	Transcript of Trial Testimony of Det. Dempsey, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
RD16	Trial Testimony of Robert Dempsey, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720), D.E. 132 (MIL relevance of evidence given narrower claims)
RE1	Transcript of Trial Testimony of Edwards, People v. Restivo			FRE 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
RE2	Transcript of Trial Testimony of Edwards, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
RN1	Interview of Regina Nezmoudeen, Detective Hillman	NC 77100		FRE 401, 402, 403, 404, 802, 803, MIL re KM
RN2	Interview of Regina Nezmoudeen, Detective Kuhn	NC 12234		FRE 401, 402, 403, 404, 802, 803, MIL re KM
SC1	Additional Statement of Steven Cagan dated 5/1/85	NC 048626-27		FRE 401, 402, 403, 802, 803
SC2	Statement of Steve Cagan dated 5/15/85	NC 048623-25		Duplicate of SC1
SS1	Transcript of Deposition of Shaun Spillane, 2/9/09			FRCP 32, 802, 803
SS2	Trial Testimony of Shaun Spillane, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
TA1	Crime Scene Photo List (various photographers)	13060-72		FRE 401, 402, 403, 802, 803, 901
TA2	Crime Scene Roll Call 12/5/84	Pl. Ex. 29		FRE 401, 402, 403, 802, 803, 901
TA3	Crime Scene Search Unit Reports "additional to 12/5/84"	Def. Ex. B		FRE 401, 402, 403, 802, 803, 901
TA3b	Pages 9 and 10 of TA3			FRE 401, 402, 403, 802, 803, 901
TA4	Crime Scene Search Unit Reports dated 12/5/84	Def Ex. C		FRE 401, 402, 403, 802, 803, 901
TA13	Transcript of Trial Testimony of Det. Allen, People v. Restivo			FRE 802, 803
TA14	Transcript of Trial Testimony of Det. Allen, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
TA15	Transcript of Trial Testimony of Det.			FRE 401, 402, 403, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
	Allen, People v. Kogut (2005)			
TA16	Transcript of Deposition of Thomas Allen, 1/22/09			FRCP 32, FRE 802, 803
TA17	Trial Testimony of Thomas Allen, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, see D.E. 132 (MIL relevance of evidence given narrower claims), 802, 803
TB1	Report of Death of Theresa Fusco by Dr. Alan Greene	NC 19138-191400; Pl. Ex. 54	Stipulated	
TB2	Report of Autopsy for Theresa Fusco dated 12/6/84	NC 171513 – 25	Stipulated	
TB3	Transcript of Trial Testimony of Dr. Tamara Bloom, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
TD1	Trial Testimony of Thomas DeCrescenzo, People v. Restivo (1986)			FRE 802, 803
TD2	Statement and interview notes of Thomas DeCrescenzo	NC 13481-13482		FRE 401, 402, 403, 802, 803
TG1	Det Mitchell Notes of Interview of Thomas Gihouley, 2/11/85-typed	Pl. Ex. 179		FRE 401, 402, 403, 802, 803
TG2	Trial Testimony of Thomas Gilhouley, Kogut v. Cty. of Nassau (2012)			FRE 401, 402, 403, 802, 803, see D.E. 132 (MIL relevance of evidence given narrower claims)
TH1	Statement, Thomas Henenlotter	NC 13895-97		FRE 401, 402, 403, 404, 802, 803
TH2	Statement, Thomas Henenlotter	NC 13898-902		FRE 401, 402, 403, 404, 802, 803
TH3	Statement, Thomas Henenlotter, given to Rick Arden	NC 13903-13905		FRE 401, 402, 403, 404, 802, 803
TH4	Receipt, Glass Crafters	NC 13906		FRE 401, 402, 403, 404, 802, 803, 901

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
TH5	Interview of Thomas Henenlotter, Detective Hillman	NC 77129		FRE 401, 402, 403, 404, 802, 803, MIL
TR2	Letter to Theodore Robinson from Commissioner Spahr (Please note: TR2 appears to be mistakenly identified in the trial transcript as TR23 at page 1130)			FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
TR3	Letter to Theodore Robinson from Samuel Rozzi, 2/28/86			FRE 401, 402, 403, 802, 803, MIL see D.E. 132 (06-cv-6720)
TR11	Crime Scene Search Unit Reports (NC 13057-13072)			FRE 401, 402, 403, 802, 803, 901
TR11A	Addendum to TR 11 (NC 17479)			FRE 401, 402, 403, 802, 803, 901
WB1	NCPD Property Bureau Invoice dated 5/8/85 regarding item seized pursuant to subaru search warrant dated 3/26/85	NC 029418		FRE 401, 402, 403, 802, 803
WB2	Notes on "Eginton Blue Van," damage and inventory, handwritten	NC 029419		FRE 802, 803, 901
WB3	Crime Scene Search Unit Receipt for Ford Blue Van dated 3/26/85	Pl. Ex. 112	Stipulated	
WB4	Transcript of Deposition of Wayne Birdsall, 2/5/09			FRCP 32, FRE 401, 402, 403, 802, 803, 901
WB5	Transcript of Trial Testimony of Birdsall, People v. Kogut (2005)			FRE 401, 402, 403, 802, 803
WB6	Transcript of Trial Testimony of Birdsall, People v. Kogut (1986)			FRE 401, 402, 403, 802, 803
WB7	Transcript of Trial Testimony of Birdsall, People v. Restivo			FRE 401, 402, 403, 802, 803

DEFENDANTS' LIABILITY EXHIBIT LIST

<u>Ex #</u>	<u>Document Description</u>	<u>Reference</u>	<u>Stipulated</u>	<u>Plaintiffs' Objections</u>
WD1	Transcript of Deposition of William Diehl, 1/20/09			FRCP 32, FRE 401, 402, 403, 802, 803
WD2	Transcript of Trial Testimony of P.O. Diehl, People v. Restivo			FRE 802, 803

Dated: February 28, 2014
New York, NY

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